

# The Hebrew Republic

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Editing in progress:

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## BOOK II.

### ORGANIC LAW OF THE HEBREW STATE

#### CHAPTER I.

##### Fundamental Principles.

IT is the proper function of the sciences to arrive at general principles; that is to say, primary, or general facts, in which all secondary, or particular facts are included. Gravitation may serve as an illustration of my meaning. By this one simple principle, astronomy explains all the complex laws of the celestial harmony.

In political, as well as physical science, there are certain great principles, true or false, from which, in any given case, all the numerous details of social organization flow.<sup>1</sup> Every state is based upon some fundamental ideas; and the study of those ideas is the most important object of inquiry in the study of its constitution. No social system can be understood without a knowledge of its fundamental principles. The Hebrew government, like all others, was founded upon certain great maxims of policy, to the development and elucidation of which the reader's attention is now invited.

The first and most essential of these fundamental principles was the unity of God.<sup>2</sup>

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1. Salvador's *Histoire des Institutions de Moïse*, 1. 1, p. 63.

2. Deut. vi. 4.

To some it may have an odd sound, to hear announced, as a principle of political science, what we are apt to regard as a mere religious dogma. But this can arise only from a want of due reflection on the subject. When Moses made his appearance in the world, idolatry had crept in on every side. It was firmly established in all nations. With its long train of moral and social evils, it had become the common sentiment and common practice of mankind. It had "ruined the credit of a settled truth, and the authority of an undoubted principle of common sense. There was not a civil constitution then in being, which was not based upon the assumed truth of polytheism. The Israelites themselves had become so infected with it, that all the miracles wrought for their deliverance, were not sufficient to cure their superstition, and keep them steadfast to the worship of the true God.

A civil constitution, inseparably interwoven with the worship of the one living God, was, as far as we can judge, an indispensable agency in enabling, perhaps I ought rather to say, in compelling the Hebrews to answer their high destination. By this means, the worship of the true God would be made imperishable, so long as the nation continued a nation. By this means, it would happen, that religion and the political existence of the people must be annihilated together. Whatever reason, therefore, there was for desiring the overthrow of idolatry, there was the same reason for incorporating the idea of the divine unity into the political structure of the Hebrew commonwealth.

Such a politico-religious constitution could then be introduced without difficulty, since it was in accordance with the political ideas of the times. Religious prodigies were as familiar as civil edicts, and as constantly bore their

share in the administration of public affairs. All the ancient lawgivers called in the aid of religion to strengthen their respective polities. Thus did Menes in Egypt; Minos in Crete; Cadmus in Thebes; Lycurgus in Sparta; Zaleucus in Locris; and Numa in Rome.

[3]But the procedure of Moses differed fundamentally from that of these heathen legislators. They employed religion in establishing their political institutions, while he made use of a civil constitution as a means of perpetuating religion.<sup>3</sup> Thus Moses made the worship of the one only God the fundamental law of his civil institutions. This law was to remain forever unalterable, through all the changes, which lapse of time might introduce into his constitution. Thus was the Jewish lawgiver enabled to secure a result of indispensable necessity to human virtue and happiness; a result, which, as far as we can see, could have been attained in no other way.

In this procedure Moses has shown himself one of the greatest benefactors of mankind. The pernicious influence of polytheism will be more fully exhibited in our chapter on the Hebrew theocracy. Let it suffice for the present to observe, that the superstitions connected with it are a prolific source of immorality, crime and misery. But it is to be carefully noted, that it is one thing to make the single article of the worship of one God the first principle of a civil polity; and it is another and totally different thing to make

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3. It is not meant to be asserted here, that Moses did not also employ religion in establishing his political institutions, but merely to direct attention to the fact, that with the heathen legislators religion was the means, and government the end, while with him government was, the means, and religion the end.

the numerous articles of a religious creed, and their maintenance among the people, the object and scope of political arrangements. Moses framed no symbolic books for the people to subscribe; nor did he publish any mere theological dogma, the belief of which was to be enforced by civil penalties. Such was the structure of the Hebrew state, as will be explained in the next chapter, that idolatry became, under its constitution, a civil crime. No mere private opinion, however, nothing but the overt act of idolatry, was [4] punishable, under the laws of Moses, by the civil authorities.<sup>4</sup>

## A second fundamental principle of the Hebrew govern-

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4. Mich. Com. on the Laws of Moses, Arts. 32, 33, 34, and 245. The political prohibition of idolatry, under the sanction of civil punishment, was not, as we shall see in the next chapter, founded on the doctrine of the true God, considered as a theological dogma, but on the principle that Jehovah, having delivered the Israelites from slavery, and made them a nation, was, by their own free choice, constituted civil head of their commonwealth. He was, therefore, to be honored as their king, as well as their God. Even on the assumption of the truth of idolatry, on the supposition that there actually were other gods, this principle bound every subject of the Israelitish government to worship None but the God of Israel. Still, it was not opinions that were prohibited, but actions. But, words may be political actions. Blackstone, indeed, (B. 4. C. 6.) lays down the doctrine, that words spoken amount only to a high misdemeanor, and no treason; for the words may be spoken in heat, without any intention, or they may be mistaken, perverted, or misremembered by the hearers. But he adds, that words set down in writing constitute an overt act of treason, for *scribere est agere*. But by the law of Moses, words spoken against the divine King of Israel were considered as compassing, that is, designing and aiming at the overthrow of the government. They were an overt act of treason, which was punished capitally. Hence blasphemy was a state crime; and I have no doubt, that to speak any evil of the God of Israel, or to deny his existence, was blasphemy, within the meaning of the statute. This law extended to foreigners, as well as to natives, Numb. 15: 15. While Moses provided, that strangers, who took refuge in the land of Israel, should be treated with justice and kindness, he gave no protection or privilege to any foreign religion. He prohibited absolutely all manner of idolatry. Still, if the stranger was, in his heart, a friend of paganism, Moses did not authorize any inquiry into his private opinion. Such an inquisitorial procedure was foreign both to his temper and his legislation. His laws gave no sanction to it. They were framed against actions, not ideas.

ment was national unity.

This idea was, in that age, as new and startling as the doctrine of the divine unity. The most ancient sages made their ideas of the material universe the type of their political and social institutions. The Egyptian priests regarded the [5] universality of things as composed of two distinct essences; the one intellectual and active, the other physical and passive.<sup>5</sup> This philosophic dogma had a predominant influence on the civil state. In the political system framed by them, the spiritual essence of the universe was the symbol of the sacerdotal aristocracy; while the baser material essence represented the common people. Thus the higher and lower classes, the nobility and commonalty, were separated by a gulf, as impassable as that which divides the inhabitants of different planets.

Moses, endowed with a capacity and animated with a principle higher than any preceding philosopher or statesman, rejecting this doctrine of dualism in the formation of his commonwealth, substituted in its place the principle of national unity. His, however, was not that species of unity, which the world has since so often seen, in which vast multitudes of human beings are delivered up to the arbitrary will of one man. It was a unity, effected by the abolition of caste; a unity, founded on the principle of equal rights; a unity, in which the whole people formed the state, contrary to what happened in Egypt, where the priesthood

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5. Herod. 1. 2.

was the state, and contrary to the celebrated declaration of a French monarch,<sup>6</sup> who avowed himself to be the state.

Let us glance at the decalogue<sup>7</sup> to ascertain, if possible, its relation to this question of the unity of the Hebrew state. These ten precepts belonged not simply to the department of ethics among the Hebrews. They were civil, as well as moral laws. They were intended to serve as the basis of the whole system of civil legislation. They have suggested to modern legislators the first idea of the declaration of the rights of man.

Hark the expressive form given to the preamble of these laws. It is as significant as it is laconic "I am Jehovah thy God, which brought THEE out of the house of bondage." [6] Here the Hebrews are addressed as one man; and so they are throughout the enactment of this fundamental code. It is Israel, it is the entire people, to whom the law-giver speaks. Here is no distinction of castes. Here is no appropriation of dignities to one class; no hereditary inferiority assigned to another. The priesthood had not at this time been instituted, nor the tribe of Levi set apart to its peculiar functions. This tribe formed, it is true, a kind of literary aristocracy, and its dignities and duties were hereditary. Still, as will be shown in our chapter on the Levitical order, it was far from constituting a nobility, in the modern acceptation of that term. The same fundamental rights are recognized as belonging to all; the same fundamental duties as binding upon all. The whole law is in the interest of the whole people.<sup>8</sup> Social distinctions,

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6.Louis XIV.

7.Ex. xx.

therefore, whenever they arise, must rest upon the natural basis of superior intelligence and worth.

Another of those great ideas, which constituted the basis of the Hebrew state, was liberty.

Liberty is a word often uttered, but seldom understood. It is the theme of much glowing declamation, but of little sober inquiry. Poets and orators have eulogized the charms of liberty; demagogues use the word every day, as an instrument of political advancement; yet few, comparatively, investigate or comprehend its nature. Civil liberty, the liberty of a community, is a severe and restrained thing. The fundamental idea of it is that of protection in the enjoyment of our own rights, up to the point where we begin to trench upon the rights of others. It is natural liberty, so far restrained, and only so far, as may be necessary for the public good. Every law, which abridges personal freedom, without a corresponding general advantage, is an infringement of civil liberty. But it is no infringement of liberty to restrain the freedom of individuals, when the public good requires it. On the contrary, civil liberty implies, in the very notion of it,[7] authority, subjection, and obedience. Montesquieu has well defined it, when he says, that it "consists in the power of doing what we ought to will, and in not being constrained to do what we ought not to will."<sup>9</sup> Liberty is a right of doing what the laws permit. If one citizen might do what they forbid, all might do it, which would be anarchy. True liberty would expire in such a state of things.

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8.Maimon. More Nevochim, pt. 3. C. 34.

9.Spirit of Laws, B. 11, C. 3



This rational, restrained, regulated liberty was amply secured by the Hebrew constitution. In the preamble to the ten commandments,<sup>10</sup> before cited, God expressly declares, that he had brought his people out of the "house of bondage." In another place he says: "I have broken the bands of your yoke, and made you go upright."<sup>11</sup> These expressions, rendered into their modern equivalents, mean: "I have delivered you out of a state of servitude, and constituted you a nation of freemen." "Is Israel a slave?" cries Jeremiah,§ his heart bursting with sadness at the contrast between the freedom secured by the constitution of his country and the vassalage imposed upon his countrymen by foreign arms.

The learned Fleury<sup>12</sup> has declared his opinion on this point in unequivocal terms. "The Israelites," he says, "were perfectly free. They enjoyed the liberty cherished by Greece and Rome. Such was the purpose of God." Montesquieu ¶ makes a reflection, which is applicable here. He says, that countries are not cultivated in proportion to their fertility, but to their liberty. Tried by this test, the freedom of Palestine will bear a favorable comparison with that of any nation in any age of the world; for never was territory more highly cultivated, or more productive, than that of the chosen tribes, in the palmy days of their history.

The freedom, secured by the polity of Moses, will more [8] fully appear, as we advance in our inquiries. There is

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10.Ex. xx.2 § Levit. xxvi. 13. ‡Levit. ii. 13.

11.Spirit of Laws, B. 18, C. 3.

12.Manners of the Israelites, C. 20.

no doubt, that the constitution was as free as it could be, consistently with its own safety and stability; and it is probable, that the Hebrew people enjoyed as great a degree of personal liberty, as can ever be combined with an efficient and stable government.

A fourth fundamental principle of the Hebrew constitution was the political equality of the people.

This was absolute and entire. I lay down the following proposition broadly and without qualification. The members of the body politic, called into being by the constitution of Moses, stood upon a more exact level, and enjoyed a more perfect community of political rights, dignities, and influence, than any other people known in history, whether of ancient or modern times.

A few words will place this point in a clear and convincing light.

It is a principle of political philosophy, first announced by Harrington,<sup>13</sup> and much insisted upon by Lowman<sup>14</sup> and the elder Adams,<sup>15</sup> that property in the soil is the natural foundation of power, and consequently of authority. This principle will not DOW be disputed. Hence, the natural foundation of every government may be said to be laid in the distribution of its territories. And here three cases are supposable, viz. the ownership of the soil by one, the few, or the many. First, if the prince own the lands, he will be absolute; for all who cultivate the soil, holding of him, and

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13. Oceana p. 37

14. Civ. Gov. Heb. C. 2

15.

at his pleasure, must be so subject to his will, that they will be in the condition of slaves, rather than of freemen. Secondly, if the landed property of a country be shared among a few men, the rest holding as vassals under them, the real power of government will be in the hands of an aristocracy, or nobility, whatever authority may be lodged in one or more persons, for the sake of greater unity in counsel and action.

[9] But, thirdly, if the lands be divided among all those who compose the society, the true power and authority of government will reside in all the members of that society; and the society itself will constitute a real democracy, whatever form of union may be adopted for the better direction of the whole, as a political body. Under such a constitution, the citizens themselves will have control of the state. They will not need to have this power conferred upon them by express grant. It will fall into their hands by the natural force of circumstances, by the inevitable necessity of the case. There is no truth in political science more easy to comprehend, more open to the view of all, or more certainly known in universal experience, than that the men who own the territories of a state will exercise a predominating influence over the public affairs of such state.<sup>16</sup> This is agreeable to the constitution of human nature, and is confirmed by the concurrent testimony of all history.

The provision of the Hebrew constitution in reference to the ownership of the soil, is that of my third supposition. Moses ordered, that the national domain should be so divided, that the whole six hundred thousand free citizens

should have a full property in an equal part of it.<sup>17</sup> And to render this equality solid and lasting, the tenure was made inalienable, and the estates, thus originally settled upon each family, were to descend by an indefeasible entail, in perpetual succession.<sup>18</sup>

The principle which lies at the bottom of this argument for [10] the political equality of the Hebrew citizens, is strongly developed, in its application to our own country, by one of our ablest political writers. "The agrarian in America," says the elder Adams,<sup>19</sup> "is divided into the hands of the common people in every state, in such a manner, that nineteen twentieths of the property would be in the hands of the commons, let them appoint whom they might for chief magistrate and senators. The sovereignty, then, in fact as well as theory, reside in the whole body of the people; and even an hereditary king and nobility, who should not govern according to the public opinion, would infallibly be tumbled instantly from their places." Such was the opinion of Mr. Adams in regard to

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16. England, it must be owned, is an exception to this remark. But this is owing to peculiar circumstances. The enormous debt of England has created a species of property called funded property,—which has all the stability of landed possessions, and which is much more diffused among the people. The vast commercial and manufacturing wealth of England is another cause of the diminished political influence of land. Hence the predominant influence is no longer in the territorial property. The funded property prevails over the landed, the boroughs over the counties

17. Numb. xxxiii. 54.26

18. Levit. xxv. 23.

19. Defence, Letter 29.

the nature and operation of this principle. He held, that the sovereignty of a state is an inseparable attribute of property in the soil. Lord Bacon and Harrington were of the same opinion. The former uses property and dominion as convertible terms;<sup>20</sup> and the latter says expressly, that empire follows the balance of property, whether lodged in one, few, or many bands.<sup>21</sup>

The details of the agrarian law of Moses will occupy our attention in a subsequent part of this treatise. The reader, however, is desired to mark, in passing, a few points in it, evincing its great wisdom. It made extreme poverty and overgrown riches alike impossible, thus annihilating one of the most prolific sources as well as powerful engines of ambition. With the denial of the means of luxury, it took away all the ordinary incitements to it, in the example of a titled and wealthy aristocracy. It gave to every member of the body politic an interest in the soil, and consequently in the maintenance of public order and the supremacy of law, which [11]he had not even the power to part with. It made the virtues of industry and frugality necessary elements in every man's character. Its tendency was to secure to all the citizens a moderate independence, and to prevent those extremes of opulence and destitution, which are the opprobrium of modern civilization. Great inequality of wealth in a nation is a great evil, to be avoided by the use of all just and prudent means. It was a leading object with Moses to give to his constitution such a form, as would tend to equalize the distribution of property. Under his

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20. "How shall the plough, then," he says, "be kept in the hands of the owners, and not mere hirelings? \* \* \* How, but by the balance of dominion, or property?"

21. Prerogative of Pop. Gov. C. 3.

polity, the few could not revel in the enjoyment of immense fortunes while the million were suffering from want. Misery was not the hereditary lot of one class, nor boundless wealth of another. The government watched over all, and cared for all alike. No citizen could justly charge his poverty to its neglect.

The agrarian of Moses elevated labor to its just dignity, and removed the odium, which adhered to it in all other ancient states. It is an error, into which our best informed political writers have fallen, to suppose, that, for the first time in the history of the world, labor has taken its true position in our country. It was as much fostered by the government, it was as generally practiced, and it was as honorable among the ancient Hebrews, as it is even in New England. St. Paul says, "if any man will not work, neither shall he eat."<sup>22</sup> This saying of the apostle was but the reflection of a common Hebrew sentiment, and shows in what estimation labor was held by that people. Intelligent labor, manly labor, independent labor, labor thinking, and acting, and accumulating for itself, was the great substantial interest, on which the whole fabric of Hebrew society rested. Such was Hebrew labor, and such the position assigned to it by the Hebrew lawgiver.

But, not content with establishing originally a full equality among the citizens, the constitution of Moses made provision for its permanent continuance. With such jealous care did [12] it watch, that the people might never moulder away, and be lost to the state in the condition of slaves, that it provided for a general periodical release of debts and servitudes;— partially by the institution of the

sabbatical year, but more completely by that of the jubilee. No matter how often the property had changed hands, at the return of the jubilee year, it was restored, free of encumbrance, to the original owners or their heirs.<sup>23</sup> The Israelite, whom calamity or improvidence had driven abroad, needed no longer to wander for want of a home of his own to welcome him. This was a wise, as well as benevolent provision of the constitution. It was admirably suited to preserve a wholesome equality among the citizens. The rich could not accumulate all the lands. The fiftieth year, beyond which no lease could run, was always approaching, with silent, but sure tread, to relax their tenacious grasp. However alienated, however unworthily sold, however strongly conveyed to the purchaser an estate might be, this long-expected day annulled the whole transaction, and placed the debtor in the condition, which either himself or his ancestor had enjoyed. At the return of this day, the trumpet peal was heard, in street and field, from mountain top and valley, throughout the length and breadth of the land.<sup>24</sup> The chains fell from the exulting slave. The burden of debt, like that of Bunyan's Pilgrim, rolled off from shoulders, long galled by its pressure. The family mansion and the paternal estate again greeted eyes, from which misfortune, through many a weary year, had divorced them. The inequalities of condition, which the lapse of half a century had produced, once more disappeared. Garlands of flowers crowned all brows; and the universal gladness found vent in music, feasting, and merriment.<sup>25</sup>

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23. Levit. xxv. 10,13.

24. Ibid. xxv. 9.

A magistracy elected by the people, the public officer chosen by the public voice, was another of those great principles, on which Moses founded his civil polity.

The magistrates are not properly the ministers of the people unless the people elect them. It is, therefore, a fundamental maxim in every popular government, that their people should choose their ministers, that is to say, their magistrates. The people need councillors of state and executive officers, as much as monarchs, perhaps even more than they. But they cannot have a just confidence in these officers, unless they have the choosing of them. And

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25. Godwyn's Moses and Aaron, l. 3. e. 10. Jahn's Bib. Arch. Sect 351. A reflection of Lord Bacon, in his History of Henry VII. (p. 72.) is pertinent here. He is commending the wisdom of the law, which required, "that all houses of husbandry, that were used with twenty acres of ground, or upwards, should be maintained and kept up forever, together with a competent proportion of land, to be used and occupied with them, and in no ways to be separated from them." On this he observes: The houses being kept up, did of necessity enforce a dweller, and the proportion of land for occupation being kept up, did of necessity enforce that dweller not to be a beggar or cottager, but a man of some substance This did wonderfully concern the might and manhood of the kingdom, to have farms, as it were, of a standard sufficient to maintain an able body out of penury; and did, in effect, amortize [transfer as an inalienable possession] a great part of the lands of the kingdom unto the hold and occupation of the yeomanry, or middle people, of a condition between gentlemen and cottagers, or peasants. Thus did the king sow hydra's teeth, whereupon, recording to the poet's fiction, should rise up armed men for the service of the kingdom." This observation of a wise and able politician sets in a striking light the wisdom of this part of the Hebrew constitution. If the law, on which Bacon is here commenting, "did wonderfully concern the might and manhood of the kingdom," how much more the agrarian of Moses!



the people, in every nation capable of freedom, are well qualified to discharge this trust. Facts, obvious to sense, and to which they cannot be strangers, are to determine them in their choice. The merits of their neighbors are things well known to them. "Should we doubt of the people's natural ability in respect to the discernment of merit, we need only cast an eye on the continual series of surprising elections made by [14] the Athenians and Romans, which no one surely will attribute to hazard."<sup>26</sup> The people, therefore, though in the mass incapable of the administration of government, are, nevertheless, capable of calling others to this office. They are qualified to choose, though, as a general thing not qualified to be chosen. "In their sentiments," said the great Edmund Burke, "the people are rarely mistaken."

The election by the Hebrew people of Jehovah himself to be the civil head of their state, is a point, which has been already established, in the introductory essay.<sup>27</sup> The proofs need not be repeated here. No fact can be plainer, or more certain, than that the judges, instituted at the suggestion of Jethro, were chosen by the suffrages of all Israel. The direction of Moses to the people, upon that occasion, is very explicit. His words are, "Take you wise men, and understanding, and known among your tribes, and I will make them rulers over you."<sup>28</sup> The meaning is, "Do you elect the proposed officers, and I will commission and induct them into office." It is very observable, that these magistrates were to be taken "out of all the people," and

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26. Montesq. Sp. of Laws, B. 2. C. 2.

27. Pp. 47, 48.

28. Deut. i. 13.

not from any privileged class. The only qualifications for office required were, that they should be "able men, such as fear God, men of truth, hating covetousness,"<sup>29</sup> "wise men, and understanding, and known among their tribes." The possession of these high attributes was enough; no other patent of nobility was required. Mr. Jefferson's test of official competency is expressed in the three interrogatories, "Is he honest? Is he capable? Is he faithful?" If he had added a fourth, "Does he fear God?" he would have had the Mosaic test to a tittle. Moses demanded four qualifications in a civil ruler, viz. ability, integrity, fidelity, and piety.

When the land of Canaan was to be divided among the tribes, Joshua addressed all Israel thus: " Give out from among you three men from each tribe, and I will send them,"<sup>30</sup> &c. "Give out from among you;" that is, "Select, choose for yourselves." When Jephthah was made judge, it is expressly said, "The PEOPLE made him head and captain over them."<sup>31</sup> These instances, and others which might be cited, prove, that the great principle, that rulers should be elected by the ruled, that authority should emanate from those over whom it is to be exercised, was fully embodied in the Hebrew constitution.

A principle, closely allied to this, viz. that the people should have an authoritative voice in the enactment of the laws, is another of those great ideas, which underlie the Hebrew government; and this principle, like the preceding

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29. Exod. xviii. 21.

30. Josh. xviii. 4.

31. Judges xi. 11.

one, is fundamental in every popular government.

When Moses, on descending from the mount, rehearsed to the people the laws which he had received from the Lord, with one voice, they answered and said, "All the words that the Lord has said, we will we do."<sup>32</sup> What is this, but an acceptance by the nation of the constitution proposed to them? The Hebrew constitution was adopted by the Hebrew people, as truly as the American constitution was adopted by the American people. "This adoption, by the Jewish nation, of the laws, which Moses brought from God, was repeated at the death of Moses, and by a statute, once in seven years was to be repeated ever after by the assembled nation. So that, from generation to generation, once in seven years, the tribes met in a great national convention, and solemnly ratified the constitution. They took what might be called the freeman's oath to observe that constitution."<sup>33</sup> The government, then, was, in a solid and just sense, a government of the people; for the magistrates were chosen by their suffrages, and the laws were enacted by their voice.

[16] The responsibility of public officers to the people was the seventh fundamental maxim of the Hebrew polity.

In proof of this the reader is referred to the closing scene of Samuel's public administration. The aged statesman resigns his authority to the convention of the people, by whom it had been conferred. History records no sublimer or more touching scene. He calls upon his constituents, if any had been injured by his public acts, or knew of any abuse of the trusts confided to him, to step forward and

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32. Exod. xix. 8.

33. Beecher's Works, vol. 1, p.179.

accuse him. With one voice they reply, "Thou hast injured, oppressed, defrauded none."<sup>34</sup>

Several incidents, related in the history of the kings, confirm this view. When Saul was chosen king, a writing, limiting the royal prerogative, was prepared by Samuel, and deposited in the sanctuary, where reference might afterwards be made to it, in case of royal usurpation.<sup>35</sup> A similar writing was exacted of his successors.<sup>36</sup> Solomon, during the latter period of his life, had reigned as a despot. When his son mounted the throne, Judah and Benjamin were the only tribes, which acknowledged him. The other tribes offered to submit to his authority, on conditions which were not accepted. But when the young king rejected their terms, they rejected him, chose a sovereign for themselves, and established a separate kingdom.<sup>37</sup> These instances show, that the people held their rulers to a stern responsibility for the manner in which they discharged their public trusts.

All this was the action of the republican spirit of the nation; a spirit, inspired, cherished, and sanctioned by the constitution. Who can doubt whether it was a constitution, intended for a free and self-governing community?

A cheap, speedy, and impartial administration of justice was another of those great ideas, on which Moses founded his civil polity.

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Under the Hebrew constitution, the poor and the weak

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34.1 Sam xii 1- 5.

35.2 Sam.v. 3. 1Kings xii.4 2 Kings xii. 17.

36. Ibid. x. 25.

37.1 Kings xii. 1- 20.

were not to be the victims of the rich and the strong. The small as well as the great<sup>38</sup> were to be heard, and equal justice awarded to all, without fear or favor. That terrible and ruinous evil, "the law's delay," was unknown to the Hebrew jurisprudence. Courts of various grades were established, from high courts of appeal down to those ordained for every town. "Judges and officers shalt thou make thee in all thy gates,"<sup>39</sup> was the constitutional provision on this subject. To what a squired, subdivision the judiciary system was carried, appears from the ordinance, which required that there should be " rulers over thousands, rulers over hundreds, rulers over fifties, and rulers over tens, who should judge the people at all seasons."<sup>40</sup> Care was thus taken, that in suits and proceedings at law, every man should have what was just and equal, without going far to seek it, without waiting long to obtain it, and without paying an exorbitant price for it. Certainly, with a judiciary constituted in this manner, justice could be administered promptly, while provision was made against the evils of hasty decisions, in the right of appeal to higher courts; in important cases, even to the venerable council of seventy, composed of the wisest, the gravest, the ablest, the most upright, and trustworthy men in the nation.<sup>41</sup>

Another vital principle of the Hebrew constitution was peace.

A thirst of conquest, and the foul passions, which it implies and engenders, had no place in the legislator's own

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38.Deut. i. 17.

39.Deut. xvi. 18.

40.Ex. xviii. 21.

41.Deut. vii 8, 9.

bosom, and were utterly repugnant to the spirit of his legislation. It was a prime object of his polity to discountenance and repress a military spirit in the nation.

In the first place, his constitution made no provision for a standing army; and a soldiery under pay was an innovation [18] long posterior to the time of Moses. The whole body of citizens, holding their lands on condition of military service, when required,<sup>42</sup> formed a national guard of defence. Thus the landholders (and every Israelite was a landholder) formed the only soldiery, known to the Mosaic constitution.

In the second place, the intensely agricultural character of the Hebrew government served to impress upon it an almost equally pacific character. Light and darkness are scarcely more repugnant to each other, than husbandry and war. Among the ancient Germans, as we learn from Tacitus and Caesar, the chiefs, in the general council of the nation, made an annual distribution of the lands in the country. The motive prompting to such a procedure was, that the thoughts of the people might not be diverted from war to agriculture. Deeply did those sagacious chieftains feel, for clearly did they perceive, that permanent landed possessions, improved habitations, and a too curious attention to domestic conveniences and comforts, would beget in the tillers of the soil an affection for the spots they cultivated. which would produce sentiments and manners, quite repugnant to their own schemes of conquest and military aggrandizement.

Thirdly, the use of cavalry, at once the effect and the cause of a passion for war, was prohibited by the constitu-

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42. Judges v. 23.

tion.<sup>43</sup> On the occasion of a certain victory, when a large number of the enemy's horses had fallen into his hands, Joshua was directed by the oracle to "tough," or hamstringing them, that is, to cut their thigh sinews."<sup>44</sup> This was practiced [19] on similar occasions, even as late as the reign of David.<sup>45</sup> The law against multiplying horses appears to have been faithfully observed, till the proud ambition of Solomon swept away this, in common with many other wholesome provisions of the national constitution. In governments, which have made conquest a leading object of pursuit, the principal military force has consisted in cavalry, and this especially in rude societies. In the infancy of the military art, the superiority of cavalry over infantry is very conspicuous. The fate of battle depended on that part of the army, which fought on horseback, or in chariots. It is obvious, that no founder of an empire, in those early ages, who intended his people for a career of conquest and military grandeur, would or could have dispensed with cavalry in his armies. The fact that Moses forbade the use of this species of force, is a proof that he designed his people for peaceful pursuits, and not for military glory.

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43. Deut. xvii 16.

44. Joshua xi. 6. The object of "houghing" the horses was, not, as most expositors, following Kimchi and Bochart, have represented, to merely lame them in the hind legs and let them go, but to kill them. A horse can be hamstrung in an instant, and, as the operation cuts the artery of the thigh, he soon dies, of the wound, by bleeding to death. This plan is still sometimes, used by military commanders, to render horses, which have been taken in battle, and cannot be carried away, unserviceable to the enemy.

45. 2 Sam. viii. 4.

But Moses had another motive for his prohibition of cavalry. The political equality of all the citizens, as we have seen under a former head, was a darling object with him. But in all ancient nations, where cavalry was employed, the horsemen, being necessarily the wealthier members of the community, became also the more powerful. The system threw the chief political power into the hands of a few rich citizens, who could afford to mount and bring into the field themselves and their dependents. This naturally tended to the establishment of monarchical and aristocratical governments. Moses could not but perceive this tendency, and on this account, as well as on account of his repugnance to an aggressive military policy, he excluded a mounted soldiery from the forces of the republic. It is remarkable, how speedily the substitution of the monarchical for the republican form of polity, led to the introduction and use of cavalry in the Israelitish armies.

[20] Fourthly, according to the testimony of Josephus, it was required, except in the case of the Canaanitish nations, that, previous to actual hostilities, heralds should be sent to the enemy with proposals of peace; and not until negotiation had failed, was force to be called in. This testimony is confirmed by a law contained in Deuteronomy 20:10. Considerable light is also thrown upon the point, by what I will venture to call a state paper of Jephthah.<sup>46</sup> It is a letter of instructions to his ambassadors, directing them as to the manner in which they should conduct a negotiation with the king of the Ammonites. The instructions are drawn up with an ability, force, and skill, which would not discredit any statesman of modern times.

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46. Judges xi. 12 27.



Another proof of the repugnance of Moses to aggressive wars, and of the peaceful spirit of his general policy, may be drawn from the law of the Hebrew festivals. Thrice every year all the males were required to repair to the capital."<sup>47</sup> † With such a law in operation, how could a nation engage in schemes of foreign conquest? The idea seems little less than preposterous.

Finally, this view of the pacific character of the Hebrew constitution is strengthened by a forcible argument of Michaelis,<sup>48</sup> ‡ in which that learned writer undertakes to prove, that the sin of David in numbering the people, which has so puzzled the commentators, consisted, not in any ambitious motions, hid in the secret chambers of his own heart, but in openly aspiring at the establishment of a military government, and in attempting, with that view, to subject the whole nation to martial regulations, to form a standing army, and so to break down and ride over one of the fundamental provisions of the constitution,—the many successful wars which he had carried on having, in all likelihood, filled his mind with the spirit of conquest.

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In beautiful harmony with the peaceful genius of his institutes, was the conduct of Moses, whenever he wished to march through the territories of other nations. Unlike the mere military chieftain of ancient times, whose sole aim was conquest and plunder, he always asked permission to do so promising to abstain from treading down the cornfields, and to pay for every thing he consumed, not accepting even water. Sihon himself was not conquered

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47. xxx. 23.

48. Com. or the Laws of Moses, Art. 174.

and despoiled of his territories, because of his refusal to grant a passage through them, nor because he marched an army of observation toward his frontier, for the Edomites had done the same before, but because he proceeded beyond his frontier into the wilderness, and, without provocation, attacked the Israelites first.<sup>49</sup>

Let us pause here, for a moment, to contemplate the remarkable phenomenon, offered to our observation. What do we behold? A man, whose deep sagacity, under the guidance of a divine illumination, "discerned the hollowness of martial glory, in an age when battles were the business and delight of nations; when hardly any thing was respected, either in societies or men, in comparison with military fame; and when public virtue and civil wisdom dwindled into nothing before the splendid sins of war."<sup>50</sup> In such an age, his penetrating genius saw, that the true elements of public prosperity lay in the path of public tranquility; and that the greatness of a nation consisted not in standing armies in memorable victories, or in uncounted acres; but in the calm virtues of industry, frugality, and beneficence; in the bloodless triumphs of disciplined intelligence; in the mild dignities, which play around the domestic circle; and in the amount of individual prosperity and happiness, spread through the homes and hearts of the land And was he not right in this estimate? Of all the evils, which afflict humanity, the greatest in magnitude, the most injurious in its moral influences, [22] the most repugnant to christianity, and the most expensive of money, is war. How, then, can we sufficiently

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49.Numb. xx. 14- 21; xxi. 21- 23.

50.Christian Examiner for Sept. 1836.

admire the wisdom of a lawgiver, who, in an age of barbarism and war, established a government upon the broad principles of equity and peace? In vain does the imagination essay to follow, in all their amplitude and variety, the streams of happiness, which shall gush forth, as from a thousand fountains, when war shall never again unfurl his crimson banner to the breeze, nor imprint his bloody footsteps upon the earth. Then shall religion, learning, social order, and regulated liberty become the inheritance of the race. Humanity shall receive purer impulses. Arts shall flourish, and science extend her enriching victories. Plenty and contentment shall become the general lot. Piety, that plant of renown, the fairest flower that bloomed in the abode of primeval innocence, shall again strike deep its roots into the human bears. And the broad earth, now scathed and blighted by the curse of its offended maker, shall again smile in the freshness and beauty of Eden.

The doctrine that agriculture constitutes the best basis of the prosperity and happiness of a state, was the tenth fundamental principle of the Mosaic polity.

Moses labored to impress upon his people the conviction, that their country was best adapted to agriculture, and that agriculture was most favorable to its true and lasting prosperity.<sup>51</sup> He represented it as a land flowing with milk and honey; a land of brooks of water, of fountains, and of depths that spring out of valleys and hills; a land of wheat, and barley, and vines, and fig-trees, and pomegranates; a land of oil-olive and honey; a land that drank liberally of the river of heaven, and wherein bread should be eaten without scarceness.<sup>52</sup> Nothing can be plainer, than that it

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51. Christian Examiner for Sept 1836.

was on agriculture alone, taken in its broadest sense, so as to include the culture of vineyards, olive grounds, and gardens, that Moses [23] saw fit to lay the foundation of the Israelitish state.<sup>53</sup> By a provision in the constitution, before explained, no Israelite could be born, who did not inherit a piece of land from his progenitors.

Country life has inspired the genius, and tuned the lyre, of many a rural bard. Their smiling pictures have lent new charms to nature herself, and have inspired, in many hearts, a taste for rural scenes and labors. But agriculture presents itself to us under a point of view more positive and practical.<sup>54</sup> It is the parent art, the paramount interest, of civilized society. The great pursuit of man is agriculture. It is the nurse of the human race. It has principles which elevate it to the rank of a science, a noble and comprehensive science. In the improvement of domestic animals and the fertilization of soils, the most abstruse principles of physiology and chemistry must be consulted. The principles of natural philosophy, also, have an equal relation to agriculture; for there is not a change of the seasons or the wind, there is not a fall of rain or of snow, there is not a fog or a dew, which does not affect some one or more of the manifold operations of the farmer.<sup>55</sup> The relation of science to agriculture is close and vital. It is an error to suppose, that the whole education of a farmer consists in knowing how to plough and sow and reap, the rest being left to the earth, the seasons, good fortune, and

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52. Ex iii 8: Deut. i. 25, viii 7- 10.

53. Mich. Com. on Laws of Mos. Art. 41.

54. Salv. Hist. Inst. Mos. 1. 3. C. 4

55. Wadsworth's Add. to the N. Y. Ag. Society.

providence. The nature of soils and plants, the food they require, and the best methods of supplying it, are objects worthy of an earnest study. In a word, farming is a science, whose principles must be investigated, mastered, and skilfully applied, in order to insure profitable crops. There is no other pursuit, in which so many of the laws of nature must be understood and consulted, as in the cultivation of the earth.

What, then, shall we think of those ancient nations, which [24] treated agriculture as a servile profession, and refused to the tillers of the soil a rank among the citizens of the state? What shall we say of those Greek philosophers and legislators, who abandoned to slaves and the dregs of the people the culture of the lands? Both Plato<sup>56</sup> and Aristotle<sup>57</sup> required slaves to till the land. In many of the states of Greece, agriculture was a servile profession. The inhabitants of conquered countries were compelled to practice it, while the citizens found employment in gymnastic and military exercises, forming, as Montesquieu says, a society of wrestlers and boxers. Thus the soil was tilled by the Helots among the Lacedaemonians, by the Periecians among the Cretans, by the Penestes among the Thessalians, and by other conquered people in other republics.<sup>58</sup>

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56. De Legibus, l. 5.

57. Poll. l. 7, C. 10. It is true, indeed, that Aristotle, in another place says, that the best republics were those, in which the citizens themselves tilled the land; but this, as Montesquieu observes, was brought about by the change of the ancient governments, which were become democratic; whereas, in earlier times the cities of Greece were subject to an aristocratic government.

Not thus did the Hebrew lawgiver think and act. He made agriculture the great channel of Hebrew industry. Doubtless, the circumstances of the Hebrew people and the grand design of their polity had an influence over this direction. Still, it cannot be doubted, that Moses regarded agriculture as, in itself, the most useful and the most honorable of employments.

The honor accorded by a lawgiver to any pursuit is a sure test of the esteem in which he holds it; and the most effectual means of causing any branch of industry to flourish among a people, is to honor it. Apply this test to agriculture among the Hebrews, and what is the result! We see the same men passing from the labors of the field to the exercise of the highest public functions, and returning again to their [25] private toils. Even after his elevation to the royal dignity, Saul goes back to the labors of husbandry.<sup>59</sup> Elijah casts his prophetic mantle upon Elisha, when the latter is engaged in ploughing.<sup>60</sup> David is taken from the sheepfold, to fill the throne of his country, and to become the leader and shepherd of the people.<sup>61</sup> The highest proof of the devotion of a people to agriculture, and of its flourishing condition, is the increase of population; since, among an agricultural people, this will generally be in proportion to the increased means of subsistence. But nowhere, in the whole history of mankind, has an equal extent of territory given birth and suste-

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58. Montesquieu's Spirit of Laws, B. 4, C. 8.

59. 1 Sam. xi. 5.

60. 1 Kings xix. 19.

61. 1 Sam. xvi. 11, 12.

nance to a population, as numerous as that of ancient Palestine.<sup>62</sup> The figures of the prophets attest the zeal of the Hebrews in preparing their soil, in removing stones and weeds and in surrounding their fields with walls and hedges.

Small proprietorships and the cultivation of all the territories of the state by the actual owners, was the policy of the Hebrew laws. Let us inquire into the effect of this policy on the social condition and general welfare of a country.

Under the system of small ownerships, Attica reached the height of her prosperity, but when Herodes Atticus became universal proprietor, she sank to poverty and misery. We look at Rome under Servius, and we see a vast body of small proprietors, enriching themselves by the cultivation of their own lands.<sup>63</sup> We look again, and see universal poverty. Immense tracts are now in the hands of the Scipios and Pompeys, who have replaced the numerous small, but prosperous [26] proprietors. The same scenes have, in modern times, been re-enacted in the south of Spain. When the industrious Moors held that country, the lands were divided and worked by the owners, who enriched both themselves and the state. But since these industrious cultivators of their own estates have been succeeded, in the ownership of the soil, by a few princely

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62. See B. 1, C. 9, of this work.

63. Curius Dentatus once said to his soldiers, when they insisted on a larger division of the conquered lands: "God forbid, that a citizen should look upon that as a small piece of land, which is sufficient to support a man." (Plutarch's Lives.) He declared that man a pernicious citizen, who did not find seven acres sufficient for his subsistence. Seven acres was the number fixed by law for each Roman on the expulsion of the kings. (Pliny in Anthon's Class. Diet. Art. Curius.)

grantees, the most fertile territories, which the sun visits in his course, are abandoned, I had almost said, to sterility and desolation.<sup>64</sup> Thus has it been everywhere and always. General wealth and comfort have increased in proportion to the division of the land.

The condition of the several sections of our own country confirms this view. Where do we see competence, domestic comfort, industry, intelligence, and manly dignity most extensively diffused among the masses? In those portions, where the land is divided into small farms, and every man works his own estate. The introduction of slavery into Georgia was owing to the system of large proprietorships. The fatal influence of cultivation by tenantry compelled a resort to slave labor, at a time when slavery was abhorrent to the feelings of the inhabitants, as well as to the principle on which the colony had been founded.<sup>65</sup>

But the most remarkable exemplification of the fruits of the two systems of large and small proprietorships is seen in the comparative condition of England and France. In the united kingdom of Great Britain and Ireland, with a population of twenty-six millions, the number of landed proprietors does not exceed eighty-five thousand. In France, with a population of thirty-four millions, the landholders are five and a half millions. Yet the aggregate wealth of Britain is greater than the,' of France. The rental of the former country exceeds that of the latter by about one-third.

The effect of this state of things on the social condition

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64. Carey's Past, Present, and Future, C. 4.

65. North American Review for July, 1848.



[27] of the two countries is well worthy of our study. Great Britain has a million and a half of public paupers, or one in e]even of her whole population; and she expends thirty- five millions of dollars annually for their maintenance. France, with double her population, has only a little more than a third of this number, or one in fifty of her whole population; and the sum expended on their support is less than two million dollars per annum, being about one twentieth of the cost of English pauperism. Great Britain and Ire]and together contain fourteen millions of human beings, whose utmost possible earnings fall short, by about one fourth, of what it would cost her to maintain the same persons in the poorhouses, notwithstanding a rigid system of economy is practiced in those establishments. The consequence of all this is, that the body of the British working people is fast sinking into a state, to which there has hardly ever been a parallel. At Stockport Assizes, in the autumn of 1841, a father and mother were arraigned and convicted of poisoning three of their children, to defraud a burial society of 31. 8s., due on the death of each child. It was whispered at the time, that the public authorities hinted that this case might not be a solitary one, and perhaps it would be best not to probe matters too deeply in that direction. " Such instances are like the highest mountain apex emerged into view, under which lies a whole mountain region not yet emerged." Statements, like those contained in this paragraph, would be incredible, if their authenticity did not rest on unimpeachable testimony.<sup>66</sup> The English nation is richer than any nation ever was before; and yet ha]f her people are starving. The fable of

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66. The authorities relied on for these statements are parliamentary reports, cited in three several articles in the North American Review for the years 1847 and 1848.

Tantalus is here a reality. With a soil blooming in beauty and waving with yellow harvests, with a commerce whitening every sea, with workshops studding all her territory, [28] with industrial implements and mechanical skill unmatched, and in the midst of plenty such as earth has seen never, her people perish from hunger. It is as if some demon had covered the land with his enchantments.

Let us now turn our regards to France, to see the effect of the opposite system of agriculture; that system in which the lands are minutely subdivided, and, for the most part, worked by those who own them. The French people are less educated, less intelligent, less skilful, and less industrious, than the English. They ought, therefore, to be in circumstances of greater destitution and misery; and they undoubtedly were so, before the revolution of 1789. At that time the minute division of landed property commenced. Since then, wages have slowly, but steadily increased, and the social condition of the people has advanced in the same ratio. Rye and wheat flour have superseded buckwheat and oatmeal. The dress of the laboring classes has improved. Their houses are better built, better lighted, better warmed, and better furnished. And, while the rate of wages has increased, bread and clothing have been cheaper; which is a sure proof of the growing prosperity and comfort of the common people. There is pauperism in France undoubtedly; but in the rural districts it is trifling, and the whole amount is but little, when compared with the enormous aggregate of it in England.<sup>67</sup>

Whence this difference? What is the cause of the gen-

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67. See note to preceding page.

eral misery of the laboring classes in England, and the general well-being of the same classes in France? They have their roots in the respective systems of landed property in the two countries. To a great extent, they are the result, in the one case, of large, in the other, of small proprietorships. The average size of landed estates in England is eight hundred and eighty acres, while in France it is only twenty acres.

"The profit of the earth is for all" was a Hebrew maxim, [29] which grew into a proverb. The monopoly of the soil is a sore evil. It makes the many the slaves of the few. It produces ignorance, improvidence, destitution, turbulence, and crime. It is essential to the progress of man, that he be unshackled, that his faculties have free play. But this can never be, unless the earth be owned by those who till it. Ownership of the soil will give tone to the mind, vigor to the body, and earnestness to industry. As well might one circle an oak with iron bands, and expect it to unfold its majestic proportions, as to cramp the human mind by unequal institutions and an oppressive distribution of land, and then expect a full development of its powers, and a happy state of society. "As the attraction of gravity is the great principle of motion in the material world, so the possession of the earth in fee simple by the cultivator, is the great principle of action in the moral world. Nearly all the political evils, which have afflicted mankind, have resulted from the unrighteous monopoly of the earth; and the predicted renovation can never be accomplished, until, to some extent, this monopoly has passed away, and the earth is extensively tilled by the independent owners of the soil."<sup>68</sup> Great proprietorships are the scourge of any country. All history attests this truth. The multiplication of

farms, and their cultivation by the actual owners, is the dictate of true political wisdom. It is this, which peoples the country, and even the cities. It is this, which elevates the masses. It is this, which confers dignity upon the common people. It is this, which stimulates industry, quickens genius, and develops the resources of a state. It is this, which gives true freedom and independence to a nation. And this, to the broadest extent ever known in practical legislation, was the policy of Moses.

These observations will, perhaps, be sufficient to establish [30] the wisdom of the Hebrew constitution in its partition of the territories of the republic. Let us now see what can be said in regard to the policy of founding a state on agriculture alone. I shall say nothing here of the special design of the Hebrew institution, but shall confine my inquiries to the point of general legislative policy.

It must be confessed, as Michaelis<sup>69</sup> has observed, that the extreme indifference of Moses to foreign and maritime commerce is not a little remarkable. To some of the politicians of our day, this will seem little short of an absurdity. Yet it may be, that some erroneous notion lies at the bottom of their wonder. The wealth acquired by Holland and Great Britain, by means of foreign trade, is so striking, that many are apt to imagine, that commerce alone is the true source of national prosperity, and that it is the greatest benefit which a legislator can confer upon a people. The mere name commerce fascinates their imagination, and seems almost to incapacitate them for sober reflection and comparison. In the delirium of their golden dreams, they forget, that it may prove the ruin of both public and private

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69. Com. on Laws of Moses Art. 39.

prosperity; as when too many superfluous commodities are imported, and the nation is thereby plunged into the mire of foreign indebtedness.

A main cause of the overvaluation of commercial as compared with agricultural pursuits, I imagine to be this, that the gains of commerce lie more upon the surface, and are more open to the general observation, while those of agriculture are of a retiring nature, and seldom obtrude themselves on public notice. It will not, therefore, be impertinent to enter somewhat into detail on this point, with the view of showing the superior importance of the cultivation of the earth, as a means of national prosperity, and so of vindicating the wisdom of Moses in founding upon it his civil polity.

Great Britain is the most commercial nation on the globe. [31] Her trade with the United States is nearly twofold that which she carries on with any other country. Yet the entire annual movement of this commerce both ways about equals in value the crop of oats and beans in the former country. The whole foreign commerce of Britain, in pursuit of which she over spreads the ocean with her fleets, and plants her colonies in the most distant islands, is actually less in value, than the annual grass crop of the British isles.<sup>70</sup> The breadstuffs, annually extracted from our own soil, amount to more than eight hundred million bushels, and their value is triple that of the aggregate exports and imports of the whole country. Our grass crop exceeds in value the whole outward and inward movement of our foreign commerce. The annual Indian corn crop of Tennessee and Kentucky reaches one hundred and twenty million bushels, and is worth as much as all our exports to Great Britain and France. What is not a little

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70. Address of Edward Everett before an Agricultural Meeting in England.

remarkable, the corn crop of these two states exactly equals, while the agricultural productions of the single state of new York greatly exceeds in value, the entire cotton crop grown in all the states and territories of this union.<sup>71</sup>

The instability of commercial pursuits, and the greater certainty of the ultimate rewards of agricultural labor, are worthy of consideration here. The prizes in commerce are comparatively few. While one man rises, multitudes sink. The late Mr. Gallatin instituted researches upon this point, and arrived at results, which seem almost incredible. I have scarcely the courage to repeat them, even under the shelter of such a name. According to this distinguished statesman and philosopher, the fortunate individuals, who attain wealth [32] by trade and commerce, are less than ten per cent of the whole number, who engage in such pursuits.

The physical and moral influences of agriculture ought not to be overlooked, in estimating the wisdom of a law-giver, who has seen fit to found his polity upon it. It is the nurse of health, industry, temperance, cheerfulness, and frugality of simple manners and pure morals; of patriotism and the domestic virtues; and, above all, of that sturdy independence, without which a man is not a man, but the mere slave, or plaything, of his more cunning fellows. Agriculture tends to produce and cherish a spirit of equality and sympathy. Buying and selling are the chief business of cities, the giving and receiving of wages a

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71. These statistics may not be exactly accurate at the present time. The paragraph containing them was written in 1842, and its statements are founded on the Report of the Patent Office for the previous year.

transaction of hourly occurrence. This produces a collision of interests and feelings, which necessarily begets a spirit of caste, and checks the current of sympathy. But there are comparatively few of these repelling influences in country life. The man who owns fifty acres, and the man who owns a thousand, live side by side, on terms of mutual esteem and friendship. Both, if they are equally entitled to it, have an equal share in the public respect. Both feel and own the bond, that unites them in the cultivation of the earth.

Agriculture begets and strengthens love of country. The heart of the husbandman is bound to the fields, on which he bestows his labor. The soil, which responds to his industry by clothing itself in beauty and riches, has a place in his affections. Especially, the circumstance, that his possession has come down to him through a long line of honored ancestors, greatly strengthens the attachment, which he feels both to his home and his country.<sup>72</sup>

The agricultural interest is, in the highest degree, conservative in its nature and action. It is the great antagonist of that mad spirit of radicalism and revolutionary innovation, which is the most terrible enemy of popular institutions.

[33] This has long ago been observed by Aristotle. "Husbandry," he says, "is the best stuff of a commonwealth, such a one being the most devoted to liberty, and the least subject to innovation or turbulence." The same thing is noticed by Harrington. "Tillage," he observes, "bringing up a good soldiery, brings up a good commonwealth; for where the owner of the plough comes to have the sword too, he will use it in defence of his own. The

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72. Mathew's Bib. and Civ. Gov. Lect. 2.

plough in the hands of the owner produces the most innocent and steady genius of a commonwealth."<sup>73</sup>

It is in the scenes and occupations of country life, that the mind is most tranquil, sober, and unclouded. It is in such an atmosphere, that it can discern most clearly the relations of things, and look beyond the events of a day. From amid the deep calm of rural pursuits, free states have drawn many of their most illustrious patriots and civilians.<sup>74</sup> The influence of agriculture, therefore, is rather favorable, than adverse, to those exalted and commanding civil qualities, which form the consummate statesman. A Hebrew farmer was summoned from the quiet of a pastoral life on the distant plains of Midian, to become the founder and lawgiver of a mighty republic. A Roman farmer was called from his plough to the helm of state, at a crisis of imminent peril to his country's welfare. And an American farmer led the revolutionary armies to victory, and secured for his grateful and admiring countrymen the blessings of liberty, independence, and self- government.

In a word, this great business, the cultivation of the earth, lies, so far as any branch of human industry can be said to lie, at the foundation of all that is important and valuable in civil society. And if, as Mr. Webster<sup>75</sup> once said, if it was for his sins that man was condemned to till the ground, it [34] was the most merciful judgment that almighty benignity could have inflicted upon him.

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73. *Oceana*, p. 30.

74. *Mat. Bib. and Civ. Gov. Lect.* 2.

75. Address at Rochester to the N. Y. Agricultural Society.



I promised, in considering the expediency of founding a state on agriculture, to confine myself to the point of general legislative policy. Let me recal that promise, so far as just to advert to the more immediate reasons, which may be supposed to have moved Moses to give no encouragement to commerce. They were probably such as these: 1. Commerce would tend to counteract the first and highest principle of his polity, since it would lead the Israelites to contract intimacies with foreign nations, which could hardly fail to draw them into idolatry 2. It would entice too many citizens to leave their own country and settle in foreign lands, which would weaken the sentiment of patriotism, and at last cause them to forget their relations and their home. The merchant is, in some sense, a citizen of the world, and has no such ties, either of interest or affection, binding him to his native land, as the man, who lives upon his hereditary farm. 3. It would introduce luxurious tastes and habits, before the nation was rich enough to bear the expense of their indulgence. Commerce is more apt to be hurtful, than beneficial, in the infancy of a state. 4. Maritime commerce would be likely to stir up enemies, against whom they could not successfully contend, without special divine assistance, which it would be irrational to expect, when engaged in pursuits, prejudicial to true religion. It would, in all probability, have embroiled them with the Sidonians and Tyrians, just as, in modern times, we have seen France incurring the irreconcilable comity of England and Holland, by the establishment of an East India trading company. 5. The vicinity of these two commercial nations, and the constant passage of Asiatic trading caravans to Egypt, secured to the Israelites all the most important ad vantages of foreign commerce.<sup>76</sup>

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76. See on this subject Mich. Com. on the Laws of Mos. Art. 39.

I should, however, fail to do justice to the Mosaic legislation [35] if I were to leave this topic, without adverting to one branch of commerce, with which no nation can dispense without essential detriment to its prosperity — I mean a domestic trade, carried on between the different parts of the same country. For such an internal commerce, provision was made in the national festivals, whereby thrice every year the entire male, population of Palestine was assembled at Jerusalem. Religious conventions of the kind have generally been made subservient to the purposes of commerce. The fairs, so common in Germany, originated at public masses, to which the people flocked from every quarter. The holy pilgrimages to Mecca gave a strong impulse to the commerce of Arabia. In a similar way the interests of internal trade were consulted in the institutes of Moses. Yet it was done in such a manner, that the carrying of it on could not become a distinct employment, but would merely occupy the weeks of leisure from the toils of agriculture:—before the harvest at the feast of the Passover; after harvest at the feast of Pentecost; and on the conclusion of the vintage, at the feast of tabernacles.<sup>77</sup>

As for foreign commerce, to expand a little hint contained in the last paragraph but one, the country of the Hebrews was so situated, that they could enjoy its advantages, without engaging in it themselves. The Phenician cities, Tyre and Sidon, were on their borders, ready to supply them with all they wanted in return for their agricultural productions. The rich caravans of the desert continually swept by them, affording them, without expense or hazard to themselves, the benefit of the enterprize of

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77. Mich. Com. on the Laws of Mos. Art. 39.

foreign nations. Moses endeavored to make his countrymen content under their vines and fig trees, and to convince them, that in these unambitious cares and labors they would find the most solid prosperity and happiness. And was he not right in this judgment? It is true, that his hopes were disappointed. This unaspiring [36] employment was too quiet for his countrymen, when war was the business of the rest of the world. But the event proved the truth of his principles and predictions. Solomon laid Ophir and Tarshish, the East and West Indies of his day, under contribution. He had his harbors in the Mediterranean and the Red Sea. He built Tadmor in the desert, now a marble wilderness, as a station for his caravans. Wealth flowed in through a thousand channels. But as the prophetic eye of Moses had foreseen, and his prophetic voice forewarned, it proved the ruin of his country. It became a golden weight, which ground its free institutions to the dust.<sup>78</sup>

But, although Moses made no laws favoring foreign commerce, his legislation was far from being chargeable with the illiberality of the Greek and Roman laws, or the bigotry of the early canonists. The profession of a shop-keeper was infamous among the Greeks, as it obliged a citizen to wait on a slave or a stranger.<sup>79</sup> This was more than the haughty spirit of Grecian liberty could brook. Hence Plato, in his laws,<sup>80</sup> makes it a criminal offence in a citizen to concern himself with trade, and orders such an one to be punished. The civil law treated commerce as a

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78. See an able article on Moses and his Institutions in the Christian Examiner for Sept. 1836.

79. Montesq. Sp. of Laws, B. 4, C. 8.

80. B. 2.

dishonorable occupation, and forbade the exercise of it to persons of birth, rank, or fortune. The Claudian law forbade the senators to have any ship at sea, which held more than forty bushels.<sup>81</sup> The canon law went farther still, and declared commerce inconsistent with christianity. At the council of Melfi, under Pope Urban II. in the year 1090, the canonists decreed, that it was impossible, with a safe conscience, to exercise the trade of a merchant. The decree was to the effect, that a merchant could rarely, if ever, pursue a conduct pleasing to God; that no christian ought to become a merchant; and that if any of the faithful [37] meddled with merchandise, he should be excluded from the pale of the church.<sup>82</sup>

Again, the Hebrew state was founded on the industry of all the citizens. This was the eleventh of those fundamental principles, which lay at the basis of the constitution.

This idea has been partially developed already; but it was so vital to the Hebrew legislation, that it deserves a distinct consideration. We have seen that a leading object of Moses was to make the country of the Hebrews a vast and busy scene of rural industry. Now, the culture of the earth requires a great number and variety of implements; and a soil of but moderate fertility will afford sustenance to a much larger population than is required for its tillage. In these two ideas, behold the germ of an effective system of mechanical industry, and a powerful stimulus to the cultivation and development of mechanical skill.

The lawgiver's first care was the cultivation of the land; his next to provide, that the people might be conveniently and comfortably lodged. He enjoined upon all to labor,

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81. Liv. B. 21.

82. Blackstone's Com. B. 1. C. 7.

that they might not only eat and be satisfied, but that they might also build goodly houses, and dwell therein.<sup>83</sup> The counsel of Solomon was but an echo of this Mosaic law: "Prepare thy work without, and make it fit for thyself in the field; and afterwards build shine house."<sup>84</sup>

The various objects of necessity, convenience, and luxury, enumerated in the sacred books, prove to us, that industry and the arts were far from being in a depressed state among the Hebrews. They made divers stuffs of wool, cotton, goat's hair, and some say of silk.<sup>85</sup> The art of dyeing was in use among them, and reached a high perfection. Their principal colors were blue, crimson, purple, and yellow, which were obtained from vegetables, fishes, and minerals. They labored especially to impart a Snowy whiteness to their fabrics used [38] for clothing. Rich stuffs, interwoven with threads of gold, and adorned with fringes of variegated colors, presented to the eye designs of various sorts<sup>86</sup>

In the construction of the tabernacle, we read of fine twined linen, and of broad tapestries, covered with beautiful figures of delicate workmanship, and joined to each other by clasps of gold. The details in Exodus respecting the proportions of the various pieces, which formed the carpentry of this portable temple, and the numerous articles which constituted its furniture, indicate the use of a great number of instruments, proper for dividing and measuring.<sup>87</sup>

Together with the arts of carpentry, founding and pot-

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83. Deut. viii. 12.

84. Prov. xxiv. 27.

85. Ex. xxxix

86. Salv. Inst. de Moïse, l. 3, c. 5.

87. Ibid, l. 3, c. 5.

tery, the Israelites brought from Egypt the art of engraving precious stones, the art of working metals, the art of inlaying in gold, and the art of moulding. The curtains of the tabernacle with their ornaments, the ark overlaid with gold, the mercy-seat with its cherubim, the table of show-bread with its furniture, the golden candlestick, the vail, the altars of burnt offering and incense, the ephod, with its curious girdle, the breastplate with its mysterious urim and thummim, the priestly vestments, and all the other paraphernalia of the royal tent, must have required, for their construction, a high degree of mechanical ingenuity.<sup>88</sup>

In the reign of Solomon the arts shone out in full effulgence. The temple, the royal palaces, their rich furniture, superb gardens, beautiful works in gold and ivory, splendid concerts of vocal and instrumental music, roads multiplied and handsomely paved, towns and fortresses built and repaired, and the great marble city of Palmyra, starting into life like a vision of beauty, attest the encouragement afforded to the arts by that munificent monarch.<sup>89</sup>

The indignant rebuke of the prophet Amos to the rich and luxurious idlers of his day, is a proof both of the progress of [39] Jewish art and of the stern demand for labor, which the Jewish law made upon all. " Woe to them that are at ease in Zion; ... that lie upon beds of ivory, and stretch themselves upon their couches, and eat the lambs of the flock, and the calves out of the midst of the stall; that chant to the sound of the viol, and invent to themselves instruments of music, like David; that drink wine in bowls, and anoint themselves with the chief ointments; but

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88. Ibid. l. 3, c. 5.

89. Ibid. l. 3, c. 5.

they are not grieved for the affliction of Joseph."<sup>90</sup>

Isaiah, complaining of the luxury of the daughters of Zion, enumerates more than twenty articles of their toilet, all costly or elegant, which are as clear an indication of the state of Jewish art, as they are of the pride and ostentation of the Jewish ladies: "In that day the Lord will take away the bravery of their tinkling ornaments about their feet, and their calls, and their round tires like the moon, the chains, and the bracelets, and the mufflers, the bonnets, and the ornaments of the legs, and the headbands, and the tablets, and the ear-rings, the rings and the nose jewels, the changeable suits of apparel, and the mantles, and the dimples, and the cringing pins, the glasses and the fine linen, and the hoods and the veils."<sup>91</sup>

At the time of the captivity, artists abounded in Jerusalem. Of ten thousand heads of families, carried to Babylon at the first invasion, one thousand were workmen in wood and in metals. Winkelman, in his history of art, has made the following observation on this fact: "We are but slightly acquainted with art among the Hebrew people; nevertheless, it must have reached a certain degree of perfection, at least in design and finish. Among the artists whom Nebuchadnezzar carried captive from the single city of Jerusalem, were a thousand, skilled in inlaid work. It would be difficult to find as many in the largest of our modern cities."<sup>92</sup>

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90. Amos vi. 1- 6.

91. Is. iii. 18- 23.

92. Salv. 1. 3, c. 5.

It is sometimes made matter of reproach against the [40] Hebrews, that they left none of those great monuments like the pyramids and temples of Egypt, which struggle successfully against the devastations of time. How little do such persons appreciate the true grandeur of nations! There were not slaves in Palestine to erect such ostentatious structures; and free labor employs itself about things more useful. Voltaire himself takes notice of this fact. He regards the pyramids as a proof of the slavery of the Egyptians; and says that nothing could constrain a free people to rear such masses. The temple, the palace of their heavenly king, is the only monumental edifice, of which the memory has been preserved. This shared the fate of the Jewish people; and, after having served as a fortress in the last efforts of liberty, the nation and the temple fell together.<sup>93</sup>

Since that day the fate of the Jewish people has been one of almost unmingled bitterness. "Scattered and peeled" has been deeply engraved upon its forehead. But they have always displayed much of the energy, activity, and industrious application to business, which distinguished their remote ancestors. This even their worst enemies have been compelled to acknowledge. An old Spanish chronicler, with an ingenuousness which would be amusing, if it did not recal painful memories, says of them: "This portion of humanity was at least good to awaken industry and to pay imposts."<sup>94</sup>

How far these permanent elements of industry may have been the result of the exact and positive spirit of their ancient law, it is impossible now to trace with distinctness.

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93. *Salv.* 1. 3, c. 5.

94. *Ibid.* 1. 3, c. 5.



I do not affirm, but I suggest for redaction, whether the economy, the ability, the tenacity, and the energy of the modern Jews, are not due to some profound cause, which is to be sought in the great principles of their original institution.

Again, the inviolability of private property, and the sacredness of the family relation, are principles, which entered essentially into the Hebrew constitution.

[41]

It cannot be necessary to adduce, at any length, the proof of this proposition, for no one can open the Pentateuch without meeting it on every page. The whole scope of the second table of the decalogue is to guard the institution of the family and the institution of property. The right and the advantage of private property are everywhere assumed by Moses. To facilitate its increase, to regulate its use, and to provide for its distribution are leading objects of his law. In this the Hebrew legislator does but echo a sentiment common to all just and wise lawgivers. A political community could not be organized, except upon a basis of individual property and right. This is the only bond, strong enough to hold such an association together. Not even a savage tribe could live together without property. The ownership by each member of the body politic of his tools, arms, clothing, and habitation, is essential to the rudest form of civil society. None would be willing to till the ground, if others had an equal right with him to gather the harvest. None would even erect a hut, if his next neighbor might enter and take possession the moment it was finished. If the idle and the industrious, if those who waste and those who save, have the same rights, and are to share alike in the fruits of the earth and the products of labor, then prudence, frugality, thrift, and provision for the future become simple impossibilities. All this is recog-

nized in the legislation of Moses. That legislation has no sympathy with a social theory, which has of late gained some currency in the world; a theory, which places activity, industry, ability, and virtue, upon the same level with indolence, idleness, incapacity, and vice; a theory, which begins by offering a premium for ignorance and incompetency, and which must end in the annihilation of all industry, all emulation, and every opening faculty. Neither has the legislation of Moses any sympathy with another principle, which has a prevalence perhaps still more extensive,— I mean the principle of a separation of the pecuniary interests of the husband and wife.

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The husband and wife are regarded by the Mosaic law as one person, having, as it were, but one soul, one interest, one will. Doubtless the doctrine, that the man is the head of the woman, and that the property of the latter becomes, as a result of the nuptial tie, part and parcel of that of the former, is sometimes productive of much hardship and suffering; but who, that reflects on the frailties and passions of human nature, can doubt, that the contrary doctrine, adopted and applied as a practical principle of legislation, would be attended with evils far greater, both in number and magnitude?

The spirit of the Mosaic law is opposed to the modern radicalism of woman's rights; a radicalism, which boldly avows its purpose of "subverting the existing order of society and dissolving the existing social compact." Moses did not favor the manhood of woman. "Unto the woman he said, ... thy desire shall be to thy husband, and he shall rule over thee."<sup>95</sup> Paul interprets this precept, when he

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95.Gen. iii. 16.

says of women, "It is not permitted to them to speak in the churches; but they are commanded to be under obedience, as also saith the law."<sup>96</sup> He speaks in the very spirit of Moses, when he says, "The man is the head of the woman;"<sup>97</sup> "wives, submit yourselves unto your own husbands;"<sup>98</sup> "Adam was first formed, then Eve."<sup>99</sup> Man has a mission, and so has woman, to which the wisdom that never errs, has adapted the bodily and mental constitution of each. Man's mission is to subdue and till the earth, to cultivate the mechanic arts, to make roads and dig canals, to carry on commerce, to encounter the perils and fatigues of war, to institute and administer government, to be the shield of woman in moments of danger and sudden alarm, in a word, to perform the rough business of life,—that which requires physical strength and endurance. Woman's mission, while it has no less of dignity, is very different from this. It is to be the light and joy of the house [43] hold, to nourish and train the immortal children within its precincts, to mould the whole mass of mind while in its most plastic state, to fill the throne of the heart, to be the priestess in the sanctuary of home, to be the comfort and support of man in seasons of sorrow and of suffering, to move in the realm of ignorance and want, to shine, to cheer, and to bless in all the varied ministrations of sympathy and love, from the cradle to the grave. What purer, nobler, holier realm can she desire? "The true nobility of woman is to keep keep own sphere, and to adorn it."<sup>100</sup>

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96.1 Cor. xiv. 34.

97.Ibid. xi. 3.

98.Eph. v. 22.

99.1 Tim. ii. 13.

Another essential principle of the legislative policy of Moses was the sanctity of human life.

No legislation of antiquity approaches that of the Hebrew lawgiver, in its solicitude to guard the lives of men. The prohibition against killing was one of the ten precepts, which formed what may be called the magna charta of the Hebrew state.<sup>101</sup> The crime of murder was punished with death. There was no redemption. It was declared, that the land could not be purged of the stain of blood, except by the blood of him who had shed it.<sup>102</sup> Even an ox, which had gored a man to death, and, by parity of reason, any other animal, as a goat, a dog, or a horse, that had killed a person by pushing, biting, or kicking, was to be stoned;<sup>103</sup> not, indeed, to punish the beast, but the owner, and so to oblige him to be careful in preventing his oxen, dogs, and other domestic animals, from injuring his neighbors. The flesh of the goring ox could not be eaten,<sup>104</sup> a prohibition which served to keep up a wholesome horror of murder, at the same time that it punished the man by the total loss of his beast. A man, who built a house, was required to make a battlement, or balustrade, to the roof.<sup>105</sup> If he neglected to do this, and a person fell from the roof in consequence, and was killed, the owner of the house brought bloodguiltiness upon himself; he was considered in the light [44] of a murderer.<sup>106</sup> A very peculiar

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100.\*Mrs. Sigourney.

101. Ex. xx. 13.

102.Num. xxxv. 33.

103. Ex. xxi. 28.

104. Ibid. xxi. 28

105.Deut. xxii. 8.

statute concerning homicide by an unknown person is recorded in Deut. 21:1- 9. This statute will be particularly examined in a subsequent part of this work, and I forbear, therefore, a detail of its provisions at the present time. By consulting the passage, the reader will perceive, that the elders, or magistrates, of the nearest city were obliged to purge themselves and their city of the murder, and make a solemn avowal, that they were ignorant of the perpetrator of it. He will perceive also, that, in the absence of the press, nothing could be better fitted than the ceremonies ordained to give publicity to the murder, and to make every one, who had any knowledge of the matter, give information concerning it. There can be no doubt, that the investigation instituted by the laws of Moses over the body of a person, who had come to his death by means unknown, is the origin of the coroner's inquest in modern times. No ancient law made such provision for the detection of secret murders as this of Moses. That of Plato, which is regarded as the best, simply ordained, that if a man was found dead, and the murderer could not be ascertained, proclamation should be made, that he should not come into any holy place, nor into any part of the whole country; for if he were discovered and apprehended, he should be put to death, be thrown out of the bounds of the country, and have no burial.<sup>107</sup> These provisions of the Mosaic code to beget an abhorrence of murder, and to guard the lives of the citizens, are very remarkable. They evince a humanity in Moses, unknown to all other ancient legislators. They must have tended, in a high degree, to introduce a horror of shedding human blood, and to give intensity to the idea of the sacredness of human life.

A fifteenth fundamental principle of the Hebrew government was education; the education of the whole body of the [45] people; especially, in the knowledge of the constitution, laws and history of their own country.

An ignorant people cannot be a free people. Intelligence

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106. Deut. .xxii. 8

107. Plato de Leg. l. 9.

is essential to liberty. No nation is capable of self-government, which is not educated to understand and appreciate its responsibilities. In a republican government, the whole power of education is required.<sup>108</sup> Upon this principle Moses proceeded in the framing of his commonwealth.

The details of the arrangements for the education of the Hebrew people, contained in the Pentateuch, are but scanty. We are, therefore greatly in the dark, as to the specific means employed. So far, however, is clear, that the Mosaic law required, that the greatest pains should be taken to mould the minds, the principles, the habits, and manners of the young. Parents were, again and again, commanded to teach their children, from infancy, all the words of the law, and all the glorious facts of their national history. They were enjoined to talk of them, when they sat in the house, and when they walked by the way, when they lay down, and when they rose up.<sup>109</sup> The whole system of legislation was crowded with commemorative rites and festivals. Into the meaning of these, it was taken for granted, that the young would inquire, and it was ordained, that their curiosity should be satisfied by the explanations of their sires.<sup>110</sup> The passover reminded them of the wonders of the exode; the pentecost, of the terrific splendors, which accompanied the giving of the law; the feast of tabernacles, of the hardships and miraculous supplies of the wilderness; and the monumental heap of stones at Gilgal, of the standing of the waters of Jordan upon an heap, to afford a passage to their forefathers. Even the borders of their garments, their gates, the frontlets between their

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108.Montesq. Sp. of Laws, B. 4, c. 5.

109.Deut. vi. 7

110.Ex. xiii.14,15.

eyes, and the posts and lintels of [46] their doors, were to become their teachers by the laws and maxims which were inscribed upon them.<sup>111</sup>

It is hence plain, that Hebrew parents were required, not only to teach their children orally, but also to impart to them the arts of reading and writing. Since they were commanded to write them, they must themselves have learned the art of writing; and since they were to write them for the use of their children, these must have been taught the art of reading. There is reason to believe, that the ability to read and write was an accomplishment, more generally possessed by the Hebrews, than by any other people of antiquity.<sup>112</sup> This was certainly the case in the time of our Savior. In his addresses to the common people, he constantly appealed to them in such words as these: "Have ye not read what Moses saith? Have ye not read in the scriptures?"<sup>113</sup> Such language implies an ability, on the part of the people, to examine the scriptures for themselves. The same thing is indicated by a fact, stated by the evangelical historian concerning the inscription placed over the head of Jesus at his crucifixion: "This title then read many of the Jews."<sup>114</sup> The writings of Josephus are crowded with testimonies as to the great care of the Hebrews in the education of their children. He says, among other things, that first of all they are taught the laws, as best fitted to promote their future happiness; that

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111. Deut. vi. 8, 9.

112. Mathew's Bible & Civ. Gov. Lect. 4.

113. Mat. xii. 3. xix. 4. xxi. 16. xxii. 31. Mark ii. 25. xii. 10, 26. Luke vi. 3.

114. John xix. 20

the people weekly assemble to hear them read, and to learn them exactly; and, to crown all, he adds, somewhat hyperbolically, no doubt, that, "if any one do but ask any of our people about our laws, he will more readily tell them all than he will tell his own name." "We find it to be the uniform testimony of Jewish writers, that the school was to be found in every district throughout the nation, and under the care of [47] teachers, who were honored alike for their character and station."<sup>115</sup> Maimonides, in his treatise on the study of the law, says: "Every Israelite, whether poor or rich, healthy or sick, old or young, is obliged to study the law; and even if so poor as to be maintained by charity, or beg his bread from door to door, and have wife and children, he must devote some time to the daily and nocturnal meditation of it." He asks, "How long ought a man to pursue the study of the law?" and replies, "Till death."

An important function of the Levites was to superintend the education of the people. The proofs of this proposition will be submitted in a subsequent chapter. For the present, I merely advert to the fact, in passing, that, in the reformation undertaken by Jehoshaphat, that excellent prince, in the true spirit of the Mosaic institution, commanded the priests to go through the land, and teach the people, city by city, the laws of Moses.<sup>116</sup> Several of the leading political principles of Plato, as I have shown in the first book,<sup>117</sup> were borrowed from the Hebrew lawgiver; but in no other point did his republic so closely resemble the Jewish, as in this, that he enjoined it upon all the citizens to learn accurately the laws.

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115. Mathew's Bib. & Civ. Gov. Lect. 4.

116. 2 Chron. xiii. 8, 9.

117. Chap. 7



In full harmony with the spirit of the Mosaic laws, and indeed as a natural result of their operation, higher seminaries of learning, under the name of "schools of the prophets,"<sup>118</sup> were introduced and established among the Hebrews. These institutions were presided over by men venerable for their age, character, ability and learning. The notices of these schools in the sacred books are rather scanty, and this has given rise to various opinions concerning them. From their name some have conjectured, that they were [48] places of instruction in the art of prophecy. This absurd fancy was borrowed by Spinoza from the rabbins, and by him handed down to his followers; whence these sage logicians have inferred, that prophecy was among the practical arts of the Hebrews, as much as carpentry, or engraving. But of this we may be certain, that the schools of the prophets were seminaries of prophets, meaning by this term inspired men, only in so far as that those who were best instructed in the divine law, being best fitted to convey God's commands to the people, would, for that reason, be most likely to be chosen by him for that purpose. In opposition to the opinion of Spinoza, Bishop Warburton argues,<sup>119</sup> with no little force, in support of the opinion, that they were seminaries designed chiefly for the study of the Jewish law. It is probable, however, that they were not devoted exclusively to that department of study, but embraced within their scope other branches of knowledge, which were reckoned among the pursuits of learning in that day. They corresponded to the colleges and universities of modern times. They must have exercised a powerful influence on the mind and manners

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118.1 Sam. xix. 18. 2 Kings ii. 3, 5.

119. Divine Legation.

of the Jewish people. It was in the schools of the prophets, that David imbibed that love for the religious and civil laws of his country, which glowed so intensely in his bosom, which sparkled in his inimitable lyrics, which became so copious a spring of blessing to his nation, and which won for himself the exalted title of the "man after God's own heart;"<sup>120</sup> not morally and religiously, for that no man has ever yet been. but, as the whole scope of the passage shows, the man after God's nears as a civil ruler, a man imbued with the spirit, and devoted to the maintenance, of the national constitution.

There was a peculiarity in the Mosaic system of education, which deserves our notice. It did not overlook the fact, that [49] every man has what Dr. Arnold calls two businesses; his particular business, as of a farmer, merchant, lawyer, or the like, and his general business, that which he shares in common with all his fellow-citizens, his business as a man and a citizen. Most modern systems of education take but little notice of this distinction. They go upon the presumption that, if a man learns his particular business well, a knowledge of his general business will come of itself, or be picked up by the way. Not such was the view of Moses. He seems rather to have thought, that every man would be impelled to make himself master of his particular business, since his bread depended on it; but that the knowledge of his general business, the want of which is less keenly felt, would be a more fit subject of legal provision. He intended, that all his people should share in the management of the public affairs. He meant each to be a depositary of political power. But he looked upon power as a solemn trust, and thought it incumbent on

a legislator to take care that those who hold it, should know how to discharge its duties. Hence, in legislating on the subject of education, he appears chiefly anxious to have his people instructed in the knowledge of their general business, that is, their duties as men and citizens. He belonged neither to that class of political philosophers, who desire to see the mass of the people shut out from all political power, as always and under all circumstances unfit to exercise it, nor to that class, who wish to see the power of the masses increased, irrespective of their ability to discharge so important a trust beneficially to the community. In his educational scheme, power and knowledge went hand in hand. The possession of the latter was regarded as essential to the right use of the former.

The old Romans have received the highest praises, because, conscious of the importance of imparting to the rising generation an early knowledge of the laws, they made the twelve tables one of the first elements of public instruction, requiring [50] the youth to commit to memory their entire contents. They were sensible, that what is learned at so early a period is not only likely to be long remembered, but is almost sure to command respect and veneration. But Moses gave a broader application to this principle than it ever received among the Roman people. The education, enjoined by Moses, was not, as among them, merely of the children of the highborn and the rich, but of all ranks and conditions. It was a fundamental maxim of his policy, that no citizen, not even the lowest and the poorest, should grow up in ignorance. How much does he deserve the gratitude of mankind for so noble a lesson! In proportion as this idea enters into the constitution of a state, tyranny will hide its head, practical equality will be established, party strife will abate its ferocity,

error, rashness, and folly will disappear, and an enlightened, dignified, and venerable public opinion will bear sway.

Upon the whole, it may be affirmed, that in no part of the Hebrew constitution does the wisdom, of the lawgiver shine with a more genial lustre, than in what relates to the education of the young. The provisions of the constitution on this point cannot be regarded otherwise than as the dictate of a wise, liberal, and comprehensive statesmanship; for, surely, it is in the highest degree desirable, that every citizen should be acquainted with the laws and constitution of his country. Patriotism itself is but a blind impulse, if it is not founded on a knowledge of the blessings we are called upon to secure, and the privileges which we propose to defend. It is political ignorance alone, that can reconcile men to the tame surrender of their rights; it is political knowledge alone, that can rear an effectual barrier against the encroachments of arbitrary power and lawless violence.<sup>121</sup>

In full accordance with the spirit of the Mosaic legislation. is the beautiful prayer of David, " that our sons may be as [51] plants grown up in their youth; that our daughters may be as corner- stores, polished after the similitude of a palace." Such was the political philosophy of the founder of the Hebrew state, and such was the practice of those statesmen in after times, who adhered most closely to the spirit of his institutions. From a survey of the whole matter, the conclusion seems warranted, that the education

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121. See this topic handled in a masterly manner by Robert Hall in one of his Reviews; I cannot now recal which.

of the Hebrew people, conducted mainly, though not wholly, under the domestic roof, was, nevertheless, a national education, and worthy of the imitation of other nations. Especially does it deserve to be studied and copied, so far as that branch of education is concerned, which consists in development, as distinguished from instruction. The Hebrew law required an early, constant, vigorous, and efficient training of the disposition, judgment, manners, and habits both of thought and feeling. The sentiments, held to be appropriate to man in society, were imbibed with the milk of infancy. The manners, considered becoming in adults, were sedulously imparted in childhood. The habits, regarded as conducive to individual advancement, social happiness, and national repose and prosperity, were cultivated with the utmost diligence. The greatest pains were taken to acquaint the Hebrew youth with their duties, as well as their rights, both personal and political. In a word, the main channel of thought and feeling for each generation was marked out by the generation which preceded it, and the stream for the most part flowed with a steady current.

Such a system of mental and moral culture as that for which the Hebrew constitution made provision, could not be without rich fruits. The result was, that the nation reached a high point of literary attainment and distinction. Under their most splendid and munificent monarch, the Hebrews enjoyed what may be called the golden age of their literature. "Solomon and his court were, in their day, the great centre of attraction for those of all Nations, who loved and [52] honored knowledge. His wisdom excelled all the wisdom of the east country, and all the wisdom of Egypt. He spake of trees, from the cedar in Lebanon even unto the hyssop that springeth out of the wall; he spake

also of beasts, and of fowl, and of creeping things, and of fishes. His songs were a thousand and five, and his proverbs three thousand. And while he excelled in the wide fields of natural science, poetry, and ethics, the temple, which still bears his name, stood before the world a monument of skill and taste, which rendered it in after ages the original model of grace, majesty, and grandeur in architecture. Such gifted luminaries in the intellectual world do not shine alone. They usually belong to a constellation, and the king who sets such an example, is not likely to be without followers. There was, indeed, one cardinal feature in the Hebrew polity, which was pre-eminently favorable, at all times, to the cultivation of knowledge. By divine appointment the whole tribe of Levi was set apart for the service of religion and letters; and while many were employed before the altar and in the temple, others were devoted to study; many of whom, especially in the reign of Solomon, reached a high name both for their attainments in the science of their age, and the fidelity with which they made their learning available for the benefit of the people. Thus was produced that happy conjunction in the history of knowledge, when learning bestowed honor on the learned, and the learned brought honor on learning; when the highest attainments were deemed of value, not according as they gave distinction to him who had reached them, but according as they tended to improve and to bless the whole family of man. Among the Hebrews there was no monopoly of knowledge by a favored few. Intelligence was general in the degree and of the kind adapted to the various pursuits and duties of those among whom it was spread. The tongue and the pen of even learned royalty were industriously employed in giving to knowledge that condensed and practical form, [53] which might bring it within the reach of all, and make it available for the

advantage of all; of the shepherd and vinedresser, as well as of the sons of the prophets."<sup>122</sup>

Another of those great ideas, on which Moses founded the Hebrew government, was union.

I refer here, not so much to those civil ties which bound the people together in one body politic, as to that oneness of hearts, opinions, and manners, which forms the strongest bond of society, and is the firmest rampart of its defence. This sympathy of souls, and the interchange of social charities springing from it, though not the primary object, was yet an excellent incidental advantage, of the equal distribution of property, heretofore noticed. The nation was thus composed of a brotherhood of hardy yeomen, no one of whom could become either very rich or very poor, or could have anything in his outward circumstances greatly to excite the envy or the contempt of the others. How well suited such a condition of things was to make solid friendships, let the opinions of all antiquity, from Aristotle to Cicero, as well as those of every succeeding age, attest.

The system of education, in vogue among the Hebrew people, tended powerfully to the same result. To this cause Josephus, with much plausibility, traces that unanimity of sentiment concerning God and morals, which, he says, so remarkably distinguished his nation, that even the women and servants spake the same things.

To the same effect was the incessant inculcation of kindness and charity, not only towards one another, but also to strangers, enforced by the oft repeated admonition, "Ye know the heart of a stranger, for ye were strangers in the land of Egypt."<sup>123</sup> "If," says the venerable patriarch,

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122. Mathew's Bible and Civil Government, Lect. 4.

whose history, there is reason to believe, Moses introduced to the knowledge of his countrymen, if he was not himself the author of it, "if I have withheld the poor from their desire, [54] or have caused the eyes of the widow to fail; if I have eaten my morsel alone, and the fatherless have not eaten thereof; if I have seen any perish for want of clothing, or any poor without covering; if I did despise the cause of my man-servant or my maid-servant, when they contended with me; what then shall I do when God riseth up; and when he visiteth, what shall I answer him? Did not he that made me in the womb, make him? and did not one fashion us?"<sup>124</sup> How beautifully does this acknowledgment of brotherhood with paupers and bondmen, from one of the most illustrious princes of his age, and this warm gush of charity towards every creature, wearing the human form and crushed beneath the burden of human sorrows, contrast with that utter want of sympathy for man as man, which characterized all the ancient systems both of government and philosophy! The "odi profanum vulgus et arceo" of Horace,—that bitter scorn and supercilious contempt of the profane herd,—was but the echo of a mode of thinking and feeling, well nigh universal among the learned and the great of his day. Much of Greek, and nearly all of Roman letters, breathes a proud oblivion and contempt of the common people. The scornful sentiment of the Roman poet, cited above, "hate for the profane rabble," is but too faithfully reflected from the pages of ancient scholarship.

But, after all, the great and sufficient means of cementing the bond of sympathy and friendship among the

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123.Ex. xxiii. 9.

124.Job. xxxi. 13 seqq.



Hebrews, were the three annual festivals, at which the males must, and the females might, assemble at Jerusalem. The divine wisdom has a reach, a compass, a manifold fulness in its plans, which the shortsighted policy of man would in vain labor to imitate. Thus it was in the institution of these solemnities. While the primary end of their appointment was of a religious nature, another and a most important one was the promotion of that fraternal esteem and charity, so congenial [55] both to the character of Moses and the temper of his laws. This was the opinion of Maimonides. "The festival days," says he,<sup>125</sup> "were appointed generally for purposes of joy, and because such public assemblies promote that union and affection, which are necessarily required under all civil and political governments."

From a similar motive sprang the national games of Greece, so celebrated in ancient story; and the institution of those assemblies has ever been looked upon as a master stroke of policy and prudence. The Greek nation, as observed by Goguet,<sup>126</sup> composed of a multitude of small states, jealous and envious of each other, had need of some common centre, where all might occasionally find themselves united and commingled. This is precisely what happened in these games, whither repaired an incredible number of spectators from all parts of Greece. By this concourse was formed a bond of correspondence, a sort of confraternity, among all the citizens of the different Grecian cities. The Greeks, at these times, appeared to be, in a

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125. More Nevochim, C. 18.

126. Origin of Laws. I cannot cite the chapter, because I am not now where I can have access. to the work.

manner, inhabitants of the same place; they offered in common the same sacrifices to the same deities, and participated in the same pleasures. By this means grudges were calmed; animosities stifled; and quarrels terminated. They had also an opportunity, in these grand assemblages, of effacing those prejudices, which are commonly kept. up only by not knowing the persons, against whom they are entertained.

Whatever advantages. of this nature, Greece derived from the institution of her games, the same flowed, in a still higher degree, to the Hebrews from their national festivals. By being thus brought frequently into contact, on an equal footing, they were reminded of their common origin and their common objects. The fact was brought home vividly to [56] their thoughts, that they were sons of the same father, worshippers of the same God, and heirs of the same promises. Persons of distant towns and different tribes met together on terms of brotherhood and fellowship; and old relations were renewed, and new ones formed. Thus the twelve petty states would become more and more closely connected, and would be, not merely nominally, but really, and from social love, united into one great people.

How strong the cementing power of these solemn convocations was actually found to be, plainly appears, in the motive, which prompted the politic and crafty Jeroboam, on the revolt of the ten tribes from the successor of Solomon, to set up the golden calves at Dan and Bethel: "Jeroboam said in his heart, Now shall the kingdom return to the house of David. If this people go up to do sacrifice in the house of the Lord at Jerusalem, then shall the heart of this people turn again to their Lord, even unto Rehoboam, king of Judah, and they shall kill me, and go again

unto Rehoboam, king of Judah."<sup>127</sup>

Here we have a clear proof, that the separation of the ten tribes from the tribe of Judah, under Rehoboam and Jero-boam, could not have been permanent, had not the latter abrogated one part of the law of Moses relative to the festivals. This shows, in a very striking manner, how naturally one common place for national festivals has the effect of preventing, or healing, any such political breaches; and that the legislator, who should be desirous of inseparably uniting twelve small states into one great nation, could not adopt a more effectual plan for that purpose, than that which Moses pursued in the case of the tribes of Israel.<sup>128</sup>

To bring the illustration of this point somewhat more closely to ourselves, what is it, let me ask, that constitutes the strongest bond of union between the people and states of our own confederacy? Is it a common ancestry? Is it the property [57] we all claim in the public annals of the country? Is it the cementing power of our revolutionary struggle? Is it even our national constitution, that precious legacy, bequeathed to us by the wisdom of our patriot sires? These things, doubtless, have their influence, nor is it a feeble one; but not one, nor, all of them combined, are adequate to the result. What, then, is that mysterious, cohesive power, which holds us together, and which alone can hold us together, as one people? It is our migratory habits. It is our universal fondness for travel. It is the fact, that each of us has a parent, a child, a brother, a sister, in the distant north, the extreme south, the far-off west. It is the certainty that none of us can find ourselves in a railway

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127.1 Kings ii. 26, 27.

128. Mich. Com. on the Laws of Moses Art. 198.

ear, or steamboat, on any of the iron roads or majestic rivers of this broad empire, without meeting, or making, an acquaintance or a friend. It is the cheap postage system, which enables heart to speak to heart, between the most distant points, without taxing even the poor with an expenditure out of proportion to their means. It is the magnetic telegraph, which transmits the messages of business and of affection, with lightning rapidity, from one extremity of the country to the other. It is our numerous watering places, where the inhabitants of the north, the south, the east, and the west, find themselves once a year, like the ancient Greeks at their games, and like the ancient Hebrews at their festivals, united and commingled,—sitting at the same table, bathing in the same waters, drinking at the same springs, inhaling health from the same breezes, engaging in the same sports, mingling in the same social circles, and joining in the song and the joke and the laugh together. It is these influences, and such as these, that bind us more firmly as a people into one common brotherhood, than would a cordon of paper constitutions long enough to encircle the globe.

A well adjusted system of checks and balances between the several powers of government was another fundamental [58] principle of the civil polity of Moses. To form a free government, it is necessary to combine the several powers of it, to adjust them to each other, to regulate, temper, and set them in motion, to give, as Montesquieu expresses it, ballast to one, in order to enable it to resist another. This is a masterpiece of legislation, never produced by hazard, and seldom attained by prudence. It is exactly here, that the point of greatest difficulty with a legislator lies. This will afford scope for the exercise of all his genius, however comprehensive, sagacious, and com-

manding it may be. It is here that we see the proudest triumph of the British and American constitutions. Here also, as it seems to me, is the chief defect of the constitution of the new French republic. There is no division of powers in it. There is no balance, no check. All the authority of the state is collected into one centre, the single assembly; and the constant tendency will be to a similar centralization of power in that body. It will be well if the system does not degenerate into the government of an irresponsible junto of master spirits, or even into the despotism of one man, bold enough, and popular enough, to seize the reins of supreme power.<sup>129</sup>

Unfortunately, history is but too full of proofs, that restless and ambitious spirits, who do not hesitate to seek personal aggrandizement, in the confusion, if not the ruin of their country, are the growth of all ages and nations. It is well observed by Lowman,<sup>130</sup> that there are two principal methods of preventing the evils of ambition, viz. either to take away the usual occasions of ambitious views, or else to make the execution of them difficult and improbable.

The Hebrew constitution, it may be boldly affirmed, made [60] But it has been repeatedly charged against the institutes of Moses, that they were purposely contrived to draw all the wealth and power of the nation into the hands of the Levites; and that, therefore, the chief danger to the popular liberty arose out of the constitution of that tribe. Never

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129. This was written in 1849. I do not expunge it, because nothing has occurred since to change my opinion of the constitution, as it stood at that time. If the usurpation of Louis Napoleon does not confirm it, at least it is not against it.

130. Civil Gov. of the Hebrews, c. 6.

was so malignant an accusation raised upon so slender a foundation. On the contrary, the organization and disposition of the tribe of Levi was contrived with consummate wisdom, both to impart a vital action to the whole system, and, at the same time, to act as a balance wheel to regulate its motions.

Let us sift a little the charge against this part of the constitution, and see to what it amounts.

There are two principal sources of political, as of personal, power,— knowledge and property. It is undeniable, that the Levites were the scholars of the nation; and it is readily granted, that, if to this advantage they had united an independent government, such as the other tribes enjoyed, and an equal possession of territory, there would have been a continual and dangerous tendency to the accumulation of property and power in their hands. But Moses committed no such capital mistake, as such an organization would argue. His constitution, at one blow, deprived the Levites of a united and independent government, and rendered them incapable of holding landed property. According to an ancient prophecy of their great progenitor, they were "divided in Jacob and scattered in Israel." They were distributed into cities, allotted to them throughout the territories of all the other twelve tribes.

By this arrangement both the estates and the persons of the Levites were given into the hands of the remaining tribes, as so many hostages for their good behavior. They were so separated from each other, that it was impossible for them to form any dangerous combinations among themselves, or to afford mutual assistance in the execution

of any ambitious [61] projects. Upon suspicion of any factions attempts on their part, it was in the power of the other tribes, not only to put a stop to their whole livelihood, but also to seize upon all their persons at once.

Hence it may be perceived, that, whatever influence the constitution conferred upon the Levites to do good, the same constitution took away from them all power to endanger the peace, or the liberties of their country. Never, certainly, did any other constitution watch, with such eagle-eyed jealousy, to preserve the people from the dangers of ill-balanced power, or guard the public liberty with so many and so admirably contrived defences against the projects of factious and restless ambition. Most justly does Lowman take notice how much these provisions of the Hebrew government to prevent the occasions of faction excel all the constitutions of the famed Spartan law-giver for the same purpose, so much celebrated by Grecian authors. Nor would they, he adds, have missed their praise, had they been published by a Lycurgus, a Solon, a Numa; or, indeed, by any body, but Moses. The more we examine into the Mosaic plan of government, and the more reflection we bestow upon it, the more shall we be convinced of the admirable equilibrium of its powers, and the more shall we feel its fitness for the efficient preservation of the public liberty.

The necessity of an enlightened, virtuous, salutary public opinion, is the last of those great ideas, which I shall notice as lying at the basis of the Hebrew constitution.

Public opinion is an instrument of mighty power; and it is none the less powerful, because its operation is silent and unperceived. It is a great and pervading principle of

action among men. No human being is beyond the reach of its influence. The despot moderates his tyranny in obedience to its mandates. The legislator respects its authority in making laws. The politician seeks to turn it to account in promoting his schemes of personal advancement. A disregard of it cost [62] Charles I, of England, his head, and drove Charles X, of France, from his throne. Ignorance or contempt of it has prostrated monarchs, overthrown governments, and drenched the plains of Europe and America in fraternal blood. Yet how benign it may be made in its operation and effects !—not like those destructive engines, with which the walls of hostile cities are battered down, but like those happier contrivances, by which the waters of rivers are diverted from their channels, and conveyed to the orchards, gardens, and corn-fields of the neighboring valleys, which thus become indebted to them for their fertility and their beauty, for the riches, which reward the husbandman's toils, and the bloom and fragrance which regale his senses. Public opinion is "the empire of mind instead of brute force, and will always prevail, when intelligence is generally diffused, and thought is free and untrammelled. Mere statute law is comparatively powerless, if public opinion is against it. Civil liberty, too, even if acquired to-day, may be lost to-morrow, unless there is accompanying it a sound public opinion, growing out of general intelligence, and an elevated tone of moral sentiment among the mass of the people. Hence the great importance of those regulations in a community, which tend to improve the standard of public sentiment."<sup>131</sup> No legislator ever understood this principle better than Moses, and none ever applied it with a wiser forecast. Undoubtedly the most efficient means employed



by him to form a just, pure, wise, and vigorous public opinion, was the system of education, which he established among the people, and which has been already described. But Moses introduced into his code many other regulations, which had a strong tendency to that end, even if such was not their primary intention. Let the reader consult Ex. 22:21-24, Deut. 24:6,10,19-22, Ex.23:4, Deut.22:6, 24:14, Levit.19:32, and Ex. 23: 1. Dr. Spring<sup>132</sup> takes notice of the precepts [63] here referred to, and denominates them great moral axioms, designed to form the moral sensibilities of the Hebrews by a standard refined and honorable, to guard them against unnatural obduracy, and to be a sort of standing appeal to the tenderness and honor of men in all their mutual intercourse. Dr. Matthews<sup>133</sup> speaks of them as "statutes by which the national mind in the Hebrew commonwealth was trained to a high standard of public sentiment, imparting to all classes a sensibility to the proprieties of life, and a spontaneous regard to its relative duties, which, in some degree, render a people a law unto themselves. To produce and perpetuate such a governing power, the power of opinion, is the very essence of wise legislation; and, in proportion to its strength and prevalence among a people, will the foundations of civil freedom be strong and enduring." This was the steady aim and successful endeavor of the Jewish lawgiver.

Such, then, as I conceive, were the great ideas, the fundamental principles, which lay at the basis of the Hebrew state. The unity of God, the unity of the nation, civil lib-

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132.Obligation of the World to the Bible, Lect. 3.

133.Bib. & Civ. Gov. Lect. 2.

erty, political equality, an elective magistracy, the sovereignty of the people, the responsibility of public officers to their constituents, a prompt, cheap, and impartial administration of justice, peace and friendship with other nations, agriculture, universal industry, the inviolability of private property, the sacredness of the family relation, the sanctity of human life, universal education, social union, a well adjusted balance of powers, and an enlightened, dignified, venerable public opinion, were the vital elements of the constitution of Moses. What better basis of civil polity, what nobler maxims of political wisdom, does the nineteenth century offer to our contemplation, despite its boast of social progress and reform? The institutions, founded on these maxims, tower up, amid the barbaric darkness and despotisms of antiquity, the great beacon light of the world, diffusing the radiance of a political philosophy, [64] full of truth and wisdom, over all the ages, which have succeeded that, in which they were first promulgated to mankind.

## CHAPTER II.

### The Hebrew Theocracy.

In order to lay down a true plan of the Hebrew government, it will be necessary to inquire whether, besides the common ends of government,—the protection of the life, liberty, property, and happiness of the governed,—the lawgiver had any special views in its institution. If so, the government would naturally be adjusted to those ends; and it can hardly be understood, without a knowledge of the particular views, which it was intended to answer. So it is certain, that such special designs entered into the mind of the Jewish lawgiver, and modified his system of government.

By the free choice of the people,\* Jehovah was made the civil head of the Hebrew state. Thus the law-making power and the sovereignty of the state were, by the popular suffrage, vested in him. It is on this account, that Josephus,† and others after him, have called the Hebrew government a theocracy. Theocracy signifies a divine government. The term is justly applied to the Mosaic constitution. Yet there is danger of being misled by it, and thence of falling into error respecting the true nature and powers of the Hebrew government. It may be too broadly applied. There was a strong infusion of the theocratic element in the Hebrew constitution. Still it was but an element in the government; and not the whole of the government. In other words, the

\* See the Int. Essay,

† Against Apion, 1. 1.

Hebrew government was not a pure theocracy. It was a theocracy, but a theocracy in a restricted sense. Every student of the Hebrew history knows, that the Hebrew people, like other nations, had their civil rulers, men who exercised authority over other men, and were acknowledged and obeyed as lawful magistrates.\*

What, then, was the true province of the theocracy? What were its leading objects? These objects, as I conceive, without excluding others, were chiefly two. One was to teach mankind the true science of civil government: It corresponds with the goodness of God in other respects, that he should make a special revelation on this subject. I hold it to have been an important part of the legislation of the Most High, as the lawgiver of Israel, to show how civil authority among men should be created, and how it should be administered, so as best to promote the welfare and happiness of a nation; and also how the relations between rulers and ruled should be adjusted and regulated. But another object of the theocratic feature of the Hebrew government, and the leading; one undoubtedly, was the overthrow and extirpation of idolatry. The design was, first, to effect a separation between the Israelites and their idolatrous neighbors, and, secondly, to make idolatry a crime against the state, that so it might be punishable by the civil law, without a violation of civil liberty. A fundamental purpose of the Mosaic polity was the abolition of idolatrous worship, and the substitution in its place, and the maintenance, of true religion in the world. The only agency, adequate to the production of this result, as far as human wisdom can see, was this very institution of the

Hebrew theocracy.

The design of the present chapter is to examine and unfold the true nature and bearing of this element of the Hebrew constitution.

In Exodus 19: 4- 6, we find this remarkable and important

\* Mathews, Bill and Civ. Gov. Lect. 1.

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record. God there addresses the Israelites thus:—"Ye have seen what I did unto the Egyptians, and how I bare you on eagles' wings, and brought you unto myself. Now, therefore, if ye will hear my voice indeed, and keep my covenant, then ye shall be a peculiar treasure unto me above all people; for all the earth is mine, and ye shall be unto me a kingdom of priests, and an holy nation."

The nature of this covenant is still more clearly disclosed in a further account of it, in the twenty-ninth chapter of Deuteronomy. "Ye stand this day," says Moses in an address to his countrymen, "your captains of your tribes, your elders and your officers, and all the men of Israel; that ye should enter into covenant with Jehovah thy God, and into his oath that he maketh with thee this day, that he may establish thee this day for a people unto himself; (for ye know how we have dwelt in the land of Egypt and how we came through the nations that ye passed by, and ye have seen their abominations and their idols, wood and stone, silver and gold, which were among them;) lest there should be among you man, or woman, or family, or tribe, whose heart turneth away from Jehovah our God, to go and serve the gods of those nations."

Here we have what Lowman,\* not inaptly, calls the

original contract of the Hebrew government. Two principles constitute the sum of it; viz. 1. the maintenance of the worship of one God, in opposition to the prevailing polytheism of the times; and 2. as conducive to this main end, the separation of the Israelites from other nations, so as to prevent the formation of dangerous and corrupting alliances.

Without stopping to inquire critically into the meaning of the several expressions here employed, the general sense of the transaction is plainly to this effect: — If the Hebrews would voluntarily receive Jehovah for their king, and would honor and worship him as the one true God, in opposition to

\* Civ. Gov. of the Heb. C. 1.

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all idolatry, then, though God, as sovereign of the world, rules over all the nations of the earth, he would govern the Hebrew nation by laws of his own framing, and would bless it with a more particular and immediate protection.

This view is confirmed by the testimony of St. Paul, if bishop Warburton\* has correctly interpreted a passage in his letter to the Galatians.† Speaking of the law of Moses, the apostle says, "It was added because of transgressions." It was ADDED. To what was it added? To the patriarchal religion of the unity, says the learned prelate. To what end? Because of transgressions; that is, according to the same authority, the transgressions of polytheism and idolatry; into which the rest of mankind were already absorbed, and the Jews themselves were hastening apace.

To this agrees the opinion of Maimonides,‡ the most learned and judicious of the Hebrew doctors. He observes, that the first intention of the Mosaic law, as is clearly evi-

dent from many parts of the scriptures, § was to eradicate idolatry, and to obliterate the memory of it, and of those who were addicted to it; to banish every thing that might lead men to practice it, as pythons, soothsayers, diviners, enchanters, augurs, astrologers, necromancers, &c.; and to prevent all assimilation to their practices. He assigns this general reason for many of the laws, that they were made to keep men from idolatry, and from such false opinions and practices, as are akin to idolatry,—incantations, divinations, soothsaying, passing through the fire, and the like.

Idolatry had now reached its most gigantic height, and spread its broad and deadly shadow over the earth. To preserve the doctrine of the unity, in the midst of a polytheistic world, was the fundamental design of the Mosaic polity.

\* Div. Leg. B. 5, S. 1.

† iv. 21.

‡ Townley's More Nevochim of Maimonides, C. 3.

§ See the Pentateuch *passim*. and many other places in the Old Testament

To this all other purposes, however important in themselves, or useful in their general action, were both subordinate and subservient. If this were a design worthy the wisdom and goodness of God, none of the means adapted to promote it, can be beneath his contrivance, or can, in the least degree, derogate from the dignity and perfection of his nature.

This single observation sweeps away at once the foundation of most of the silly ridicule, with which infidels have amused themselves, in their disquisitions on these venerable institutes. Statutes, which, at first sight, and considered apart from their true relations and intentions, seem frivolous, and unworthy the wisdom and majesty of

God, assume quite a different air, and appear in a light altogether new, when viewed as necessary provisions against the danger of idolatry.

Let me illustrate this observation with a few examples. In the nineteenth chapter of Leviticus,\* we find the following law: "Ye shall not round the corners of your heads, neither shalt thou mar the corners of thy beard." This law has called forth many a sneer from men, who, without any remarkable claim to such a distinction, arrogate to themselves the exclusive title of free thinkers. But to those who really think with freedom and candor, it will appear a direction, not only proper, but important, when it is known, that it was aimed against an idolatrous custom, which was extensively prevalent, when the law was given. Herodotus says, that the Arabians cut their hair round in honor of Bacchus, who is represented as having worn his in that manner† and that the Macians, a people of Lybia, cut their hair so as to leave a rounded tuft on the top of the head,; just as the Chinese do at the present day. Bochart,§ cited by Patrick,¶ notes, that the Idumaeans, Moabites, Ammonites, and other inhabitants of Arabia Deserta, are called "circumcised in the cor

\* v. 27

† lib 3. C. 8.

‡Lib. 4. C. 175.

§ Canaan, 1. 1. C. 6.

¶ In Loc.

ners," that is, of the head. The hair was much used in divination among the Greeks. Homer represents it as a common custom for parents to dedicate the hair of their children to some god; which, when they came to manhood, was cut off, and offered to the deity. In accordance with this custom, Achilles, at the funeral of Patroclus, cut off his golden locks, which his father had dedicated to the



river god Sperchius, and cast them into the flood.\* Virgil represents the topmost lock of hair as sacred to the infernal gods.† Idolatrous priests, ministers of a false religion, made the mode of cutting the hair and beard, forbidden by Moses, essential to the acceptable worship of the gods, and efficacious in procuring the several blessings prayed for by the worshippers. It was to eradicate idolatry, which was, so to speak, the hinge on which the whole law turned, that Moses introduced this prohibitory statute into his code.

In the twenty third chapter of Exodus,‡ the following statute occurs: "Thou shalt not seethe (boil) a kid in his mother's milk." Dr. Clarke§ thinks, that the sole design of this law was to inculcate a lesson of humanity. It is probable, however, that it was directed against an ancient custom of idolatry. Dr. Cudworth|| cites a manuscript comment of a Karaite Jew on this place, to the effect, that the ancient heathen were accustomed, when they had gathered in all their fruits, to take a kid, and boil it in the dam's milk, and then, in a magical way, to sprinkle with it their trees, fields, gardens, and orchards, thinking thereby to make them more fruitful. Spencer¶ **has shown that the same idolatrous custom, prompted by a similar motive, prevailed among the ancient Zabii.**

\* Hom. Il. 1. 23. vv. 124 seqq.

† Aen. 1. 4. vv. 698 seqq. See also Dr. A. Clarke's Commentary on Levit. xix. 27. ‡v. 19. §In loo.

|| Discourse on the Lord's Supper, p. 36.

¶ De Legibus Hebraeorum.

A similar reason there was for the statute, which forbade the wearing of "garments mingled of linen and woollen."\* Maimonides† informs us, that he found it enjoined in old

magical books, that the idolatrous priests should clothe themselves in robes of linen and woollen mixed together, for the purpose of performing their religious ceremonies. A divine virtue was attributed to this mixture. It was supposed that it would make their sheep produce more wool, and their fields better harvests.

On the same ground reefered the law, which enjoined, that "the woman shall not wear that which pertaineth unto a man, neither shall a man put on a woman's garment." Maimonides§ found it commanded in the books of the idolaters, that men in the worship of Venus, the Astarte or Ashteroth of the Phenicians, should wear the dress of women, and that women, in the worship of Mars, the Moloch of the east, should put on the armor of men. Macrobius|| cites the old Greek author Philocorus, as saying, concerning the Asiatics, that, when they sacrificed to their Venus, the men were dressed in women's apparel, and the women in men's, to denote that she was esteemed by them both male and female. It was a common practice of idolatry to confound the sexes of the gods, making the same deity sometimes a god, and sometimes a goddess. The Cyprians represented their Venus with a beard and sceptre, and of masculine proportions, but dressed as a woman. The Syrians worshipped her under the form of a woman, attired as a man. At Rome, they had both a male and female Fortune; also, as Servius and Lactantius tell us, an armed Venus. This doctrine of a community of sexes in their gods, led the idolaters to confound, as far as possible, their own sex, in their worship of them.

\* Levit xix. 19.

†Townley's More Nev. c. 12.

‡Deut. xxii. 5.

§ More Nev. c. 12.

|| L. 3, c. 8, cited by Townley in his 33d Note on Maimon. Mor. Nev. Also by Lowman on Civ. Gov. of the Hebrews, C. 1.

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Hence the custom, so widely diffused, of men and women wearing a habit different from that of their sex, in performing religious rites. Julius Firmicus describes this manner of worship as common among the Assyrians and Africans. From them it passed into Europe. It was practiced in Cyprus, at Coos, at Argos, at Athens, and other places in Greece.\* At Rome, it does not appear ever to have become a common practice, but we read of Clodius dressing himself as a woman, and mingling with the Roman ladies in the feast of the Bona Dealt

The law, which prohibited the sowing of a field with mixed seeds‡ was based on a like reason. It is true, that Michaelis§ and Dr. Clark|| regard this prohibition as simply a prudential maxim of agriculture, designed to make the Israelites careful to have their seed as pure as possible, and so to prevent the evils of negligent and slovenly farming. More reasonable appears the opinion of Maimonides,¶ Spencer,\*\* and Patrick,†† who regard the statute in question as directed against idolatry, the very name and memory of which the Mosaic law sought to blot out and destroy. Maimonides interprets Levit. 19:19, as forbidding the grafting of one species of tree into another, and says, that the prohibition was designed to guard the Israelites against a most abominable and corrupting practice of idolatry. The Zabii performed this kind of grafting, especially of olives into citrons, as a religious rite, accompanying it, at the moment of insertion, with the most indecent actions.‡‡ Dr. Spencer observes, that

\* See Young on Idolatrous Corruptions in Religion, vol. 1, pp. 97- 105.

† Dr. A. Clarke in loc.

‡ Levit. xix. 19. Deut. xxii. 9.

§ Comment. on the Laws of Moses, Art, 268.

|| In loc.

¶ More Nev. by Townley, C. 12.

\*\* De Leg. Heb. l. 2. c. 18.

†† Comment. on Deut. xxii. 9.

‡‡ The words of Maimonides are:—" Oportere, ut cum una species in aliam inseritur, surculum inserendum menu sue tenet formosa quasdam puella, quam praeternaturali ratione vir quidam vitiet et corrumpat, ipsaque congressus hujus tempore plantulam illam arbori infigat."

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it was a rite of idolatry to sow barley and dried grapes together. By this action the idolaters consecrated their vineyards to Ceres and Bacchus, and expressed a dependence on these deities for their fruitfulness. It was, in effect, a renunciation of the care and blessing of the true God, and a declaration of their hope in the favor of idol gods. Bishop Patrick well remarks, that if the Israelites had followed this custom, it would have made the corn and the grapes, that sprang up from such seed, impure, because polluted by idolatry.

These laws, and others which infidelity has dared to reproach and ridicule as frivolous, did the divine wisdom enact, in order to eradicate idolatry, and establish the fundamental truths of the existence and unity of the living God. The design of them was, to keep the Israelites from walking in the ordinances and manners of the nations, which were cast out before them.\* And to this end they were well adapted. It was essential, that the idolatrous ceremonies of the gentiles should be prohibited, because, if they had been permitted, they could not fail to lead to idolatry.

We find a very remarkable law in Leviticus xvii. 1- 7. It forbids, even on pain of death, the killing of any animal for food, during the abode of the Israelites in the wilder-

ness, unless it was at the same time brought to the altar, and offered to the Lord. This certainly appears, at first view, not only harsh and rigorous, but even unjust and tyrannical. But it was aimed against idolatry, which, as we shall soon see, was treason in the Hebrew state, and therefore justly punishable with death. The statute is thus translated by Michaelis:† — "Whoever among the Israelites killeth an ox, sheep, or goat, either within or without the camp, and bringeth it not before the convention-tent, to him it shall be accounted bloodguiltiness; he hath shed blood, and shall be rooted out from among his people; and this, in order that

\* Lev. xviii. 3, xx. 53.

† Mich. Comment Art. 244.

the children of Israel may bring to the door of the convention-tent their offerings which they have hitherto made in the field, and give them unto the priest, to be slain as feast offerings in honor of Jehovah; that his priest may sprinkle the blood on the altar of Jehovah, and burn the fat as an offering perfume in honor of him; and that no man may any more make offerings to satyrs, running after them with idolatrous lust." "The reason and design of this law," observes the same writer,\* "we have no need to conjecture; for Moses himself expressly mentions it. Considering the propensity to idolatry, which the people brought with them from Egypt, it was necessary to take care lest, when any one killed such animals as were usual for sacrifices, he should be guilty of superstitiously offering them to an idol. This precaution was the more reasonable, because, in ancient times, it was so very common to make an offering of the Flesh it was intended it eat. And hence arose a sus-

picion, not very unreasonable, that whoever killed animals, usually devoted to the altar, offered them of course; and, therefore, Moses enjoined them not to kill such animals otherwise than in public, and to offer them all to the true God; that so it might be out of their power to make them offerings to idols, by slaughtering them privately; and under the presence of using them for food." This law was expressly repealed on the entrance of the nation into the promised land,† when the enforcement of it would have become a hardship and a tyranny.

There is a part of the Mosaic code, to which I must call the reader's attention in this connexion; I mean that which concerns clean and unclean meats. The law upon this point has ever been most open to the ridicule of unbelievers. It descends to so minute a detail, that men, ignorant of its true nature and end, have, on account of its apparent unfitness to engage the concern of God, hastily concluded against its

\* Ibid. Art. 244.

† Deut. xii. 15.

divine original. But if they would but take the trouble to reflect, that the purpose of separating one people from the contagion of universal idolatry was a design not unworthy of the governor of the universe, they would see the brightest marks of divine wisdom in an institution, which took away from that people the very grounds of all commerce, whether of trade or friendship, with foreign nations. Doubtless the design of this institution, as of most others in the Mosaic system, was manifold. Among the ends to be answered by it, a not unimportant one was to furnish the

chosen tribes a code of wholesome dietetics. That considerations of this nature entered into the legislator's mind, is the unanimous opinion of the best interpreters, both Jews and Christians. Maimonides\* labors, with great zeal and learning, to prove the correctness of this view of the law. Dr. Adam Clarke† speaks of the animals denominated unclean as affording a gross nutriment, often the parent of scorbutic and scrofulous disorders, and of those called clean as furnishing a copious and wholesome nutriment, and free from all tendency to generate disease. M. de Pastoret,‡ a celebrated French writer, notices the constant attention of Moses to the health of the people, as one of the most distinguishing traits in his character as a legislator. The flesh of the prohibited animals, that of the swine especially, was certainly calculated to aggravate, if not to produce, that shocking malady, the leprosy, which was endemic in the east, and prevailed, to a frightful extent, among the inhabitants of Palestine. Purposes of a moral nature, also, entered, beyond all question, into the general design of the law. The distinction of meats tended to promote the moral improvement of the Israelites by impressing

\* See his *More Nevochim* in various places.

† Commentary in loc.

‡ *Moyse, considers comme Legislatteur et comme Moraliste*, C. 7. Cited by Townley in the Dissertations prefixed to his Translation of the *More Nevochim*.

their minds with the conviction, that as they were a peculiar," so they ought to be a "holy nation;" by prohibiting the eating of flesh, whose gross and feculent nature might stimulate vicious propensities; and by symbolizing the dispositions and conduct to be encouraged and cultivated,

or to be abhorred and avoided. Dr. Townley\* cites, as concurring in this view, Levi Barcelona, Eusebius, Origen, Justin Martyr, Tertullian, and others.

But, though this law aimed to promote the health and morals of the Hebrews, such considerations did not exhaust the scope and intention of it. Its leading design was to counteract idolatry, by separating the Israelites from their idolatrous neighbors, and so preventing the infection of their example in religion and manners. This opinion does not rest on mere conjecture; nor even on the basis of logical deduction from admitted premises. The main intention of the law is unequivocally declared in the 20th chapter of Leviticus:† "Ye shall not walk in the manners of the nations which I cast out before you; \* \* \* ye shall therefore put difference between clean beasts and unclean, and between unclean fowls and clean; \* \* \* and ye shall be holy unto me."

The wisdom of this provision, considering the end in view, is most admirable. "Intimate friendships," observes a sagacious writer,‡ "are in most cases formed at table; and with the man with whom I can neither eat nor drink, let our intercourse in business be what it may, I shall seldom become as familiar as with him, whose guest I am, and he mine. If we have besides, from education, an abhorrence of the food which each other eats, this forms a new obstacle to closer intimacy. Nothing more effectual could possibly be devised to keep one people distinct from another. It causes the difference between them to be ever present to the mind, touching, as it does, upon so many points of social and every day con-

\* Fourth Diss. prefixed to his Trans. of the Mor. Nev. † Vv. 23- 26.

‡ Mich. Com. Art. 203.



tact. It is far more efficient, in its results, as a rule of distinction, than any difference in doctrine or worship, that men could entertain. It is a mutual repulsion, continually operating. The effect of it may be estimated from the fact, that no nation, in which a distinction of meats has been enforced as part of a religious system, has ever changed its religion."

It is perfectly evident from the history of the Israelites, that their entire isolation from other nations was the only means, save a miraculous control of their understanding and will, of abolishing idolatry among them. Polytheism was then the universal religion of mankind; and the Jews, as Michaelis\* has observed, often appear to have had their heads turned, and to have been driven, as if by a sort of phrensy, to the belief and worship of many gods.

Yet this circumstance, strange as it now appears, when duly considered, forms no just ground even of wonder; much less, of any supercilious self-complacency on our part. Opinions are extremely infectious, as we ourselves have but too many proofs in the thousand extravaganzas of the times. Let us not flatter ourselves, that, had we lived then, we should have been superior to the most absurd and besotted follies. Even Solomon, a learned man and a philosopher, to say nothing of his inspiration, incredible as it seems to us, built idol temples, and sacrificed to strange gods. The Jews in our day are exposed to a similar influence from christianity, which is powerfully felt by them. Their peculiarities are invaded by christian institutions and manners. In our country, for example, the festival of Christmas is extensively observed by them, though it is, strictly speaking, no more a part of their religion or man-

ners, than the festival of Baal-peor. I was myself once invited to the celebration of this festival in a Jewish family. On my venturing to call the attention of my host to the incongruity of such an observance by a Jew, he admitted it, and added, that he had said the same thing to

\* Mich. Com. Art. 32

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his children that very morning, when they had asked him for Christmas presents. Their reply to him was, "that all children received presents that day, and they wanted them as well." This conversation let much light into my mind on the defection to idolatry of the ancient Israelites.

Another point. Those who wonder at the frequent lapses of this people, forget, that idolatry did not consist simply in the worship of those "dead things called gods of gold and silver," or of "some vile beast laid over with vermilion set fast in a wall." On the contrary, idolatry touched all the infirmities of the human heart. The splendid festival of the idol-worshipper veiled the most voluptuous practices, and initiated into the most infamous mysteries. The heart of the Israelite was of flesh, sensual and carnal, like that of other men. Idolatry was an appeal to his susceptibility of sensual impressions and pleasures. It was a stealth into dark and voluptuous rites. It offered a ready aliment to the secret and wavering passions of the rebellious Hebrews. Hence their frequent lapses into the vilest rites of their idolatrous neighbors, despite the clear proofs, with which they had been favored, of the unity and sovereignty of the divine being.\* That madness of debauchery, which was exhibited in the city of Gibeah,† reveals the true source of so obstinate an attachment to the idolatry, which consecrated such vices.

The idolatry of the ancient Israelites had, moreover, this material circumstance of mitigation. They never, at the very height of their polytheistic madness, formally renounced the worship of Jehovah. The follies of idolatry are endless; and among them, a leading one was the belief in what Warburton calls "gentilitial and local gods." The former accompanied the nations, by whom they were worshipped, in all their migrations; the latter were immoveably fixed to the spots, where they were adored; or, as the learned prelate.‡ has

\* D'Israeli's *Genius of Judaism*, C. 4.

† *Judg.* xix. 22- 25.

‡ *Divine Legation*, B. 5. S. 3.

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quaintly expressed it,—" the one class were ambulatory, the other stationary."

This principle led to an intercommunity of worship; so that the adoption and worship of a new deity was by no means looked upon as a necessary renunciation of those worshipped before. Thus it is recorded of the mixed rabble of idolators, with whom the king of Assyria, after the conquest and removal of the ten tribes, had peopled Samaria, that "they feared Jehovah, and served their own gods."\* So also Sophocles makes Antigone say to her father, that "a stranger should both venerate and abhor those things, which are venerated and abhorred in the city where he resides." Celsus gives as a reason for such complaisance, the doctrine, that the several parts of the world were, from the beginning, parcelled out to several powers, each of whom had his own peculiar allotment and residence. It was the same idea, that led Plato to adopt and advocate the maxim, that nothing ought ever to be changed in the reli-

gion we find established in a country.

In accordance with this principle, the Israelites combined the worship of idols with the worship of the true God, who, in amazing condescension, assumed the title of a tutelary local God, and chose Judaea as his peculiar regency.† Thus, when the people "made a calf in Horeb,"‡ it was evidently designed as a representative of the God who had wrought deliverance for them; for Aaron proclaimed a feast to Jehovah, not to Isis or Osiris. So Jeroboam, when he set up the golden calves at Dan and Bethel,§ does not give the slightest intimation of a formal intention to renounce the worship of Jehovah. And Jehu, one of his successors, while he still persists in the sin of Jeroboam, the son of Nebat, that is, in the worship of the calves, actually boasts of being a zealot

\* 2 Kings xvii. 33.

‡ Exod. xxxii. 4; Ps. cvi. 19.

† Warburton's Div. Leg. B. 5. S. 3. 1 § Kings xii. 28-33.

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for Jehovah.\* Instances of the like nature are scattered throughout the Old Testament Scriptures; and they prove conclusively, as Warburton has observed, that "the defection of Israel did not consist in rejecting Jehovah as a false god, or in renouncing the law of Moses as a false religion; but in joining foreign worship and idolatrous ceremonies to the ritual of the true God. To this they were stimulated, as by various other motives, so especially by the luxurious and immoral rites of paganism."

These observations naturally lead us to the inquiry, whether the suppression of idolatry was a design worthy to

engage the care of the divine mind; in other words, whether idolatry was a matter of mere harmless speculation, or a fountain of dangerous immoralities, and a prolific source of evils to the human race, whenever and wherever it has prevailed.

The religious sentiment has ever been paramount, either for good or for evil, in its action both upon societies and individuals. "Wherewith shall I come before Jehovah, and bow myself before the high God; shall I come before him with thousands of rams, or with ten thousands of rivers of oil; shall I give my firstborn for my transgression, the fruit of my body for the sin of my soul?"†—is the piercing cry, which our universal nature has sent up to heaven, in all ages of the world. Let the thirty thousand gods of the Greeks and Romans, the costly temples reared for their worship, and the countless hecatombs that smoked upon their altars; let the long and painful pilgrimages of whole armies of devotees to the shrine of their idolatry, and their innumerable and cruel self-tortures, inflicted in the vain hope of thereby securing the divine favor; above all, let the rivers of human blood, shed to glut the rapacity of some sanguinary deity, which have drenched the soil of every nation under heaven, —attest the truth of this observation.

\* 2 Kings x. 16.

† Div. Leg. B. 5. S. 3.

‡ Mic. vi. 6, 7.

"Religion," says Coleridge,\* "true or false, is, and ever has been, the centre of gravity in a realm, to which all other things must and will accommodate themselves." The sense which mankind have ever entertained of the power of the religious principle in moulding human char-

acter, plainly appears in the pains taken by the ancient lawgivers to impress upon those for whom they legislated, an idea of their inspiration by some deity. Minos, lawgiver of the Cretans, often retired to a cave, where he boasted of having familiar conversations with Jupiter, whose sanction he claimed for his legislation. Mneves and Amasis, renowned legislators of Egypt, attributed their laws to Mercury. Lycurgus claimed the sanction of Apollo for his reformation of the Spartan government. Pythagoras and Zaleucus, who made laws for the Crotoniates and Locrians, ascribed their institutions to Minerva. Zathraustes, lawgiver of the Arimaspians, gave out that he had his ordinances from a goddess adored by that people. Zoroaster and Zamolxis boasted to the Bactrians and the Getae of their intimate communications with goddess Vestal And Numa amused the Romans with his conversations with the nymph Egeria.

These facts demonstrate a universal persuasion of the controlling energy of the religious sentiment over men's minds and practices. It cannot, indeed, be otherwise than that the ideas which men entertain of the gods they worship, should constitute a capital element in the formation of their moral character. Like gods, like worshippers. It is vain to expect, that the virtue of the devotee will exceed the virtue of the divinity. The worshippers of a bloody Mars, a thievish Mercury, an incestuous Jupiter, and a voluptuous Venus, could hardly help being sanguinary, dishonest, and licentious.

"Gods partial, changeful, passionate, unjust,  
Whose attributes were rage, revenge, and lust,"

\* Manual for Statesmen.

could never become the authors of the opposite virtues in those by whom they were adored. Whatever sanctions they might annex to their laws, their example would always prove more powerful than their terrors.

Plato excluded poets from his republic, dismissing even Homer, with a garland on his head, and with ointment poured upon him. His object, in this otherwise unaccountable rigor, was, that they might not corrupt the right notions of God with their fables. If we consider the absurdity, as well as the immorality, of their fictions, we shall hardly be disposed to blame him. They distinguished the gods in their places and ways of living, in the same manner as they would different sorts of animals. Some they placed under the earth; some in the sea; some in woods and rivers; and the most ancient of them all they bound in hell. Some are set to trades; one is a smith; another is a weaver; one is a warrior, and fights with men; others are harpers; and others, still, delight in archery and the chase. Gods of the sea, the rivers, the woods, the hills, and the valleys; gods of smithery, music, and the chase; gods of wine, war, and love; —what more besotted could be imagined? The father of the gods himself is fast bound by the fates, so that he cannot, contrary to their decrees, save his own offspring. Not seldom does he resort to policy and craft, nay to the basest disguises and hypocrisies, to accomplish his purposes, which are often of the most shameful nature. Storm, darkness, fear, rage, madness, fraud, and the vilest passions were invested with divinity. Unbounded lusts and disgraceful amours were ascribed by the poets to almost all the gods. There was scarcely a member of the Olympian senate, who would now be admitted to decent society among mortals. No wonder that

Plato shut out from his commonwealth a class of writers, whose extravagant and teeming fancy he regarded as the source of these monstrosities.

It was a principle of polytheism, that the supreme God,

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after he had made the world, retreating, as it were, wholly into himself, had committed the government of it to subordinate deities, and did not interfere in the regulation of human affairs. Thus the temporal blessings of health, long life, fruitful seasons, plenty, safety, victory over enemies, and such like advantages, were to be sought from these demons, or idols. And these blessings were to be obtained, and the opposite evils averted, not by the practice of virtue and beneficence, but by the use of some magical ceremonies, or by the performance of certain senseless and barbarous rites of worship. That this was a fundamental doctrine of idolatry, we have undoubted proofs, both from sacred and profane writers. King Ahaz, in 2 Chronicles,\* says, "Because the gods of the kings of Syria help them, therefore will I sacrifice to them, that they may help me." The prophet Hosea† represents the Jews of his time as saying, "I will go after my lovers (the idol gods), that give me my bread and my water, my wool and my flax mine oil and my drink." To a reproof from Jeremiah for their idolatry, they replied: "As for the word that thou hast spoken unto us in the name of the Lord, we will not hearken unto thee. But we will certainly do whatsoever thing goeth forth out of our own mouth, to burn incense unto the queen of heaven, and to pour out drink-offerings unto her, as we have done, we, and our fathers, our kings, and our princes, in the cities of Judah, and in the streets of Jerusalem: for



then had we plenty of victuals, and were well and saw no evil. But since we left off to burn incense to the queen of heaven, and to pour out drink-offerings unto her, we have wanted all things, and have been consumed by the sword and by the famine." ‡ Here they aver, in substance, that as long as they had worshipped the queen of heaven, all had gone well with them, and her, therefore, they would worship, and to her sacrifice, in spite of his admonitions. To the like purport is the decla

\*xxviii. 23.

† ii. 5.

‡ Jer. xlv. 16- 18.

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ration of Plato. In his work *De Anima Mundi*, speaking of the punishment of wicked men, he says; "All these things, hath Nemesis decreed to be executed in the second period by the ministry of vindictive terrestrial demons, who are overseers of human affairs; to which demons the supreme God hath committed the government of this world."

But was not this a harmless philosophical dogma? By no means. It was a doctrine, not more false in point of fact, than pernicious in its results. It was a denial of the providence of God. The disbelief of this great truth gave plausibility, attractiveness, and energy to the whole system of idolatry. The supreme being was thought to be too exalted in his dignity to take any concern in human conduct, too remote from this sublunary scene to regard its vicissitudes with any interest, too much absorbed in the contemplation of his own infinite perfections to care for the perfection of inferior beings, too much engrossed in the enjoyment of his own independent happiness to feel any desire for the happiness of creatures. Hence his existence came to be, either totally forgotten, or regarded with indifference.

However the case might have been with a few philosophic and contemplative minds, to the generality of mankind the true God was as though he were not. They referred not their conduct to his direction, for his power had nothing to do with their happiness or misery. He had delegated to demons the government of this world. The agency of these inferior beings controlled its affairs; their will determined the blessings or calamities of life. While, therefore, it was wise and safe to neglect the supreme being, it was unwise and unsafe to treat with a like indifference the subordinate deities, to whom he had committed the administration of human affairs.\* Thus men came to think, that they were not to expect the blessings of life from the favor of the one true God, by imitating his purity and goodness; but from a Jupiter, stained with

\* See on this subject Graves on the Pent. Pt. 2, Lect. 1.

crimes that would doom a mortal to the gibbet or the penitentiary; from a Mercury, a thief and a patron of thieves; from a Bacchus, the god of drunkenness; from a Mars, the instigator of war and bloodshed; or from a Venus the patroness of all manner of voluptuousness and debauchery. Hence they became, almost necessarily, as corrupt in practice, as they were erroneous and grovelling in their opinions. The principles of moral goodness were well nigh extinguished in the human heart, and the practice of the moral virtues had almost disappeared from the earth. And intemperance, ferocity, lust, fraud, and violence might have brought a second deluge upon the race, had not the truth of God stood pledged against the repetition of so dire a calamity.

But further, and worse. Idolatry did not simply lead to vicious practices, it even consecrated vice in its sacred rites. Incredible as it may seem, uncleanness formed a part of the religious worship paid to the gods. Persons of both sexes prostituted themselves in honor of Venus, Priapus, Astarte, Baalpeor, and other filthy and loathsome deities. Of these obscene rites, as constituting a part of the religion of idolaters, we have the clearest proofs in authors of undoubted credit. Strabo\* informs us, that a single temple at Corinth maintained more than a thousand religious prostitutes. Herodotus† tells us, that women of this description abounded among the Phenicians, Babylonians, and other eastern nations. He even says, that by an express law, founded on an oracle, it was ordained, that all the women of Babylon should, at least once in their lives, repair to the temple of Venus, and prostitute themselves to strangers. Strangely enough as it seems to me, an eminent and for the most part judicious author,‡ has labored to prove, that this custom must have been conducive to the virtue of chastity. Facts, however, contradict the theory of this learned writer. Babylon,

\* Geog. 1. 8.

‡ Goguet in his Origin of Laws.

† Lib. 1. c. 187.

by the testimony of both sacred and profane authors, was one vast sink of pollution. Its inhabitants made a particular study of all that could delight the senses, and excite and gratify the most shameless passions. The women of Cyprus sacrificed their chastity before marriage, to Venus.\* The Egyptians had religious prostitutes, who were consecrated to Isis.† The Isiac rites, transported to

Rome, became a mere cloak for licentiousness. Tiberius caused the images of Isis to be thrown into the Tiber. But her worship was too alluring to be suffered to die out and disappear. It was, therefore, subsequently revived in full force, and Juvenal speaks of it in an indignant strain.‡ Selden, *De Diis Syriis*, has fully shown the impurities of the ancient idolatrous worship. Bacchus, Osiris, and Ceres were adored with rites, which modesty forbids to explain.§ That these religious obscenities were practiced in the days of Moses, is manifest from the history of the Israelites, who committed fornication with daughters of Moab.|| The immorality was perpetrated at a sacrificial festival, the Moabitish women exposing themselves in honor of Baal-peor, who was the same as the Priapus of the Romans. It is further evident from a law of Moses, forbidding a father to prostitute his daughter, "to cause her to be a whore."¶ This law must be understood as prohibiting the exposure of a daughter as an act of religion, for surely no man, not even the vilest and most abandoned, could prostitute a child to purposes of common whoredom.

The necessary consequences of religious doctrines and ceremonies, like those described in the preceding paragraph, was the extinction of all true religious principle, and even of

\* Justin I. 18. c. 5. Herod. 1.1. c. 187.

† **Lewis's Antiq. of the Heb. Rep. B. 5, c. 1.**

‡ See Anthon's *Class. Dict. Art. Isis*, and the authorities referred to by him.

§ See Lowman on *Civ. Gov. Heb. c. 1.*

|| Num xxv 1- 3

¶ Levit. xix. 29.

all the principles of moral virtue and goodness. They gave intensity to the depraved appetites of human nature. They put the bridle upon the neck of lust, and caused men to run riot in every species of impurity.

But the ancient mythologists represented their deities under, if possible, a still more malign and repulsive light. The learned professor Meiners\* says, that the more ancient Greeks imagined their gods to be envious of human felicity. Whenever any extraordinary success attended them, they were filled with terror, lest the gods should bring upon them some dreadful evil. Herodotus† attributes to Solon, in his interview with Croesus, the formal declaration,—“The gods envy the happiness of men.” The Egyptian monarch Amasis grounds the withdrawal of his friendship from Polycrates, tyrant of Samos, on the notoriously envious nature of the divine being.): The sage Artabanus warns Xerxes, that even the blessings which the gods bestow, are derived from an envious motive.§ A similar doctrine prevailed at Rome, agreeably to which the great Fabius, as Livy informs us, remonstrated with the Roman people against an election to the consulship in his old age, urging, among other reasons, that some divinity might think his past successes too great for mortal, and turn the tide of fortune against him. In accordance with this doctrine, we find even the reflecting Tacitus expressing the opinion, that the gods interfere in human affairs but to punish.||

As a necessary consequence, almost the whole of the religion of the ancient pagan world consisted in rites of deprecation. Fear was the leading feature of their religious impressions. Hence arose that most horrid of all religious ceremonies,—the rite of human sacrifice. Of this savage

custom, archbishop Magee, in one of the notes appended to his Discourses on

\* *Historia Doctrinae de vero Deo*, p. 208.

† L. 1. C. 32.

‡ Herod. 1. 3. C. 40.

§ *Ibid.* 1. 7. C 16.

|| "Non esse curae deis *securitatem* nostram, esse *ultionem*."

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Atonement and Sacrifice,\* asserts and proves, that there is no nation mentioned in history, which we cannot reproach with having, more than once, made the blood of its citizens to stream forth, in holy and pious ceremonies, to appease the divinity, when he appeared angry, or to move him, when he appeared indolent.

"Conformably with this character of their gods," adds the same learned prelate, "we find the worship of many of the heathen nations to consist in suffering and mortification, in cutting their flesh with knives, and scorching their limbs with fire. The cruel austerities of the gymnosophists, both of Africa and India; the dreadful sufferings of the initiated votaries of Mithra and Eleusis; the frantic and savage rites of Bellona; and the horrid self-mutilationa of the worshippers of Cybele,—but too clearly evince the dreadful views entertained by the ancient heathens of the nature of their gods."

Undoubtedly, then, it became the wisdom, the justice, and the goodness of the one true God, to check these spreading and direful evils; to bring men back from their polytheistic follies to the belief and worship of himself; and to let them know, that he had not parted with the administration of providence, nor given over the disposal of temporal blessings to any subordinate beings whatsoever; so that health, plenty, and all kinds of prosperity were to be sought from him alone, and expected as the sole gift of his sovereign bounty. And here we may take

notice, in passing, of an opinion of Origen, in which Spencer and others of the learned concur, that it was a very wise procedure in Moses to enforce the observance of his laws by the hope of temporal good and the fear of temporal evil. Such hopes and fears were, if not a source of idolatry, at least a means of strengthening it. The Hebrew lawgiver turned this battery, if I may be allowed the expression, against the enemy. In the name of Jehovah, Israel's divine king, he promised temporal blessings to the obedient, and threatened

\* Vol. 1. pp. 89- 109.

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temporal calamities to the disobedient. Thus the very things, which before had been motives to idolatry, now became motives and aids to true religion. It may be said without irreverence, that a sort of necessity was laid upon the true God to proceed in this manner. How could he effectually check the propensity to idolatry; how could he show, that he had not delegated to demons the government of the world; how could he vindicate his own incommunicable sovereignty and omnipotence, but by doing, in reality, what the false gods pretended to do?

Upon the same principle it was, I think, that prophecy, in the more restricted sense of foretelling future events, was so much employed under the Hebrew government. The ability to peer into the future was claimed by the ministers of the ancient idolatrous worship; and the people, confiding in their pretensions, consulted them upon all occasions. To meet and overcome the power of superstition in that direction, it would seem natural, and, indeed, almost necessary, that the true God should show, by infallible tokens, that the past, the present, and the future were all one to him.

But the pestilent virus of idolatry was too deeply seated to be eradicated by such agencies as these. The question, then, naturally arises: What just and rational means were adequate to the suppression of it? Opinions are not to be bound by legal enactments; and to enforce mere theological dogmas by the arm of the civil law, would be a gross breach of civil liberty. It would be strange indeed, if a code, to which the world is indebted for most of the true principles of civil freedom, violated that freedom, in a fundamental article of it. And, in truth, however certain ignorant or prejudiced writers may have represented the matter, the constitution of Moses is chargeable with no such inconsistency.

How, then, was Moses able to suppress idolatry, without infringing the principle here announced? By the introduction of the theocratic system into his inspired legislation.

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God only shalt thou serve," was the first great principle of the Hebrew polity. To the end that this fundamental truth of religion might become a vital element of Hebrew thought, faith, and manners, the one true God became also the covenanted king, the civil head of the Hebrew state. Thus to the Israelite the Deity was both a celestial and a terrestrial sovereign, his God and his king. Viewed as to a main design of it, then, the theocracy was a divine constitution, employed the more effectually to supplant idolatry, without a violation of that precious principle of civil liberty, that mere opinions, whether theological, ethical, or political, were not to be cramped and restrained by the pains and penalties of the civil law.

"The records of the Hebrew polity," observes Col-



eridge,\* with a just discrimination, "are rendered far less instructive as lessons of political wisdom by the disposition to regard the Jehovah in that universal and spiritual acceptation, in which we use the word as christians; for relatively to the Jewish polity the Jehovah was their covenanted king."

What, then, was the theocracy? God condescended to assume the title and relation to the Hebrew people of chief civil ruler. He established a civil sovereignty over them. He issued his edicts as a civil magistrate. The manner in which the compact, giving reality to this relationship, was formed, deserves particular notice. It is detailed in the nineteenth chapter of Exodus. Moses, acting under a divine commission, proposed to the nation the question, whether they would receive Jehovah for their king, and submit to his laws? The suffrage of the people appears to have been entirely free in this matter. By their own voluntary consent Moses made God their king. Thus idolatry and every thing leading to idolatry or growing out of it, became a crime against the state,—became, in fact, "*crimen laesse majestatis*," high treason, or rebellion. As such, it was justly

\* Manual for Statesmen.

punishable with death,—all governments agreeing in this that treason is the highest of civil crimes. The punishment of idolatry by law had, then, plainly, this capital quality of justice, that it was punishing the act of those who had chosen the government under which they lived, when freely proposed to them. Their own suffrages had made it a political offence. Hence idolatry is called by the Hebrew

writers "the transgression of the covenant." It was a breach of the fundamental compact between the Hebrew people and their chosen king. The theocracy made religious apostasy a state crime, which it could not be, without infringing liberty, under any other constitution.

It is a material consideration, that Moses nowhere deduces God's right to give laws to the Hebrew nation from his being the one only God, but from his having by miraculous interpositions and works of power, laid the foundation of their state. In confirmation of this view, the reader's attention is invited to a remarkable passage in Deuteronomy.\* I give the passage, as translated by Michaelis:† "When thy son asketh thee in after times, whence come all the statutes and laws, which Jehovah thy God hath given thee? thou shalt say to him, we were in Egypt slaves to the king; but Jehovah, with a strong hand brought us out of Egypt, and did before our eyes great miracles, whereby he punished the Egyptians, and Pharoah and his house; and he brought us out, to give us the land, which he had by an oath promised to our fathers: Therefore he commanded us to keep all these laws." Here the right of legislating for the Hebrews is, in express terms, grounded on the favors which God had bestowed upon them, and not upon his absolute sovereignty as creator and universal lord.

What God says to the Israelites in Exod. 20: 2, 3, is to the same effect: "I am Jehovah, thy God, which have brought thee out of Egyptian bondage; thou shalt have no

\* vi. 20- 24.

† Com. Art. 34.

gods before me." It would have been quite consonant with sound theology to say: "I Jehovah am God alone; therefore thou shalt have no gods but me." This fundamental article of religion is taught in many parts of the Mosaic writings. But the opinions of the Israelites were not to be fettered by legal enactments; and yet idolatry must be prohibited on pain of civil punishment. God, therefore, as Michaelis has observed, addressed a people strangely prone to polytheism, to this effect:—"Lest you should absurdly suppose, that there are many gods, who can hear your prayers and recompense your offerings, know that I alone have delivered you from Egyptian tyranny; have made you a people; and am the author and founder of your state: Therefore let no gods but me be worshipped among you."\*

But it ought never to be forgotten, that, although God, by what he wrought for the Israelites, had acquired all the right to be their sovereign, that any man could possibly have, still he neither claimed nor exercised that right in an arbitrary and despotic way. Moses, by his direction, permitted the people freely to choose whether they would accept Jehovah as their king, and obey the laws which he might give them. When they had formally assented to this, God was considered as their king, but not before. The whole world, indeed, was under his moral rule; his dominion as creator embraced all the tribes of earth; but Israel was his peculiar property, whose people had chosen him for their king. The passages of scripture to this effect are surprizingly pointed and striking. The history of the election by the Israelites of Jehovah to be the head of their state, contained in the nineteenth chapter of Exodus, has been before explained and commented on at length.†

Other passages are no less remarkable. Thus, in Deut. 33:5, it is said "God was king in Jeshurun, when the heads of the people, and the tribes of Israel were gathered

\* Com. art. 33.

† See pp. 47, 48 of this vol.

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together."\* This seems a plain reference to the account in Exodus' and as plain an intimation, that God was made king by the vote of the assembled nation. So when the Israelites first desired a man for a king, God said to Samuel, "They have not rejected thee, they have rejected me, that I should not reign over them."† Again, when they were to receive this king, the record is, "Thus saith Jehovah, God of Israel, I brought up Israel out of Egypt, and delivered you out of the hand of the Egyptians, and out of the hand of all kingdoms, and of them that oppressed you; and ye have this day rejected your God, who himself saved you out of all your adversities and your tribulations, and ye have said unto him, Nay, but set a king over us."‡

What is the issue? We have seen the monstrous doctrines, pollutions, and crimes of idolatry. We have seen the justice, wisdom, and goodness of the purpose to put a stop to such dreadful evils. We have seen the nature and ground of God's claim to the sovereignty of the Hebrew state. We have seen, that the government was a voluntary compact between the sovereign and the citizens. We have seen, that idolatry under this constitution was a state crime, was in fact high treason. We have seen, that the whole scope and hinge of the Hebrew polity was the overthrow of idolatry, and that the theocratic element was introduced into it expressly to further that design. Let the

reader consider and weigh these things, and, if he be

\* The common version makes Moses king in Jeshurun. But Kennicott, Michaelis, Adam Clarke, and other distinguished Hebrew scholars, are of the opinion, that the word Moses crept into the text by mistake of some transcriber, and was not in the original. as written by Moses himself Dr. Clarke, with his usual curtness and vigor pronounces the sense yielded by our translation "most absurd." Dr. Kennicott's argument in support of the opinion, that God, and not Moses, is the real subject of the proposition, is forcible and conclusive; but it is hardly worth while to trouble the reader with philological discussions of that nature. See Clarke in loc., Kennicott's first Dissertation, and Michaelis's Commentaries, Art. 34.

† 1 Sam. viii 7.

‡ Ibid. x. 18, 19.

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candid and unbiased, if his mental vision be not warped and clouded by prejudice, he will own, that to have imposed the penalty of death upon the worship of false gods can no longer appear in the light of inquisitorial tyranny.

It will be proper to conclude this chapter with a brief sketch of the religious and moral doctrines of judaism.\*

There is one God, says the Jewish lawgiver, and there is none besides him. He is the sole object of religious trust and worship. Himself the supreme being, and the necessary source of all other beings, there is no other that can be compared with him. A spirit, pure, immense, infinite,—no material form can be a fit symbol of his nature. He framed the universe by his power; he governs it by his wisdom; he regulates it by his providence. Nothing escapes his omniscient glance; nothing can resist his almighty power. The good and evil of life are alike dispensed by his righteous hand.

A public worship of this God is instituted. Ministers to preside over it are appointed. Sacrifices and offerings and a splendid ceremonial are established. But all this pomp is

nothing in his eyes, unless prompted and animated by the sentiments of the heart. The worship which he demands, before all and above all, is the acknowledgement of our absolute dependence and of his supreme dominion; gratitude for his benefits; trust in his mercy; reverence for his authority; love towards his excellence; and submission to his law.

What purity and beauty in the moral doctrines of this code! Equity, probity, fidelity, industry, compassion, charity, beneficence;—in a word, every thing that makes men respectable in their own eyes, every thing that can endear them to their fellows, every thing that can assure the repose and

\* See on this subject "Lettres de quelques Juifs Allemands et Polonais a M. de Voltaire." The valuable substance of the first Letter is embodied in these closing sentences.

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happiness of society,—are placed among the number of human duties.

Where else, in all antiquity, are to be found ideas of God and his worship, so just and sublime; religious institutions, so pure and spiritual; ethical doctrines, so conformable to the sentiments of nature and the light of reason? Recal the picture, presented in a former part of this chapter, of the religious and moral condition of the ancient world. What false and grotesque notions of the divine nature! What extravagant, impure, and cruel rites! What objects of adoration! From the heavenly orbs to the meanest plant, from the man distinguished for his talents or his crimes to the vilest reptile,—everything has its worshippers. Here, chastity is sacrificed in the temples. There, human blood flows upon the altars, and the dearest victims expire amid flames, kindled by superstition. Again, nature is outraged

by beastly amours, and humanity brutalized by vices that cannot be named without offence. Everywhere, the people are plunged into a frightful ignorance, and the philosophers themselves grope in doubt and uncertainty.

Wherefore this difference? But one cause, adequate to the result, can be assigned. All the pagan nations had for their guide only the feeble and tremulous light of human reason. Among the Hebrews, a higher, even the pure and eternal reason, had pierced the darkness, scattered its shades, and poured a divine illumination into the mind of prophet, priest, lawgiver, judge, and king. Thus was the intellect of the nation enlightened, and its heart purified. Thus were its manners humanized; its morals elevated; its institutions liberalized. Thus was the nation educated for its great mission of guidance and of blessing to all the nations of the earth, in all the periods of their history.

The Hebrew government was a government of tutelage. No form of polity has ever approached it in grandeur, purity, simplicity, and beneficence. Had men been more perfect, it

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would have stood forever. But human inconstancy wearied even of a perfect government; mortal passions corrupted even a divine institution; and the commonwealth of Israel, like the empire of Rome, at length fell beneath the weight of its own vices, and disappeared from the brotherhood of nations. It lives only in history, a monument at once of the divine goodness and equity.

CHAPTER III.

## General Idea of the Hebrew Constitution.

The political equality of the people, without either nobles or peasants properly so called, was, as we have seen,\* a fundamental principle of the Mosaic constitution. This could not but give the state a strong democratic tendency. Nor is it matter of surprize, that on this foundation Moses established a commonwealth, rather than a monarchy.† On this point, there is scarcely a dissenting voice among all the learned men, who have written upon these institutions. Mr. Horne‡ does but echo the general opinion, when he says, that " the form of the Hebrew republic was unquestionably democratical."

Moses did not, indeed, by an unchangeable law, enact, that no alteration should ever be made in the form of government. On the contrary, his prophetic eye foresaw, that the time would come, when his countrymen, infected and dazzled

\* Bk. 2, c. 1, p. 400.

‡ Introduction, vol. 2, Pt. 2, c. 1.

† Mich. Com. on the Laws of Moses.

by the example of the surrounding nations, would lose their relish for republican simplicity, and would demand the splendors of a throne and a court. But it was not his wish, that they should have a king. Upon this point he reasoned; he dissuaded; he expostulated; he warned. The spirit of his law was strongly against monarchy; and all, who afterwards maintained that spirit, were equally strong against it. This was the case with Gideon, who indignantly rejected the offer of a crown. This was the case with Sam-



uel, that model of a popular magistrate. He remonstrated, solemnly and eloquently, with the people, against their rash determination to have a king. He told them, that they were fastening upon themselves an oriental despotism; that their kings would rule them with a rod of iron: and that they would repent of their rashness, when it was too late. The truth is, that all who followed the maxims of the founder of the state, set their faces against usurpation, and maintained the rights of the people at all hazards, and in the most disastrous times.\*

Foreseeing, however, that all his admonitions would, in the end, prove unavailing, Moses enacted a fundamental law to define and limit the power of the future kings. This law is found in the 17th chapter of Deuteronomy. Despotism seems to be the native growth of the east. Man there, cradled in servitude, becomes fitted to listen to his fate, in the mandates of a tyrant. The climate dissolves the energy of the heart, and hence the people of the east have always been mere children in respect of political institutions. Indolence loves to gaze, and hence they have ever been delighted with the trappings of royalty, and have been prone to look on an earthly king with a veneration approaching to idolatry. The pomp of their sovereign feeds their vanity; his power is their pride. They have no notion of popular freedom. Hence a chief magistrate, subject to the laws of his people, a constitutional king, is a conception, foreign to all their

\* Chr. Exam. for Sept. 1836.

habits of thought and feeling. In Egypt, Moses had wit-

nessed the abuse of the regal power; in the wilderness, he had observed the tyranny of the petty despots in the neighborhood of Israel. Hence the enactment of the law referred to above. The particular provisions of this law will be examined in another chapter. I will only observe now, in passing, that they were such as to insure, whenever the anticipated change in the form of polity should take place, the existence of a constitutional monarchy. The king, permitted by Moses to the folly of his country men, was, in truth, what a late monarch in France\* claimed to be, a "citizen king;" a popular magistrate, rather than an arbitrary sovereign. If the Hebrew statesman could not wholly resist the proclivity of his nation to the regal form of government, he at least, with prescient wisdom, limited the power intrusted to the hands of royalty. In this he shows how thoroughly his own spirit was impregnated with democratic principles, how deep was his hatred of tyranny, and how ardent and irrepressible his sympathy for the rights, the liberty, and the happiness of man.†

Considerable difference of opinion exists among the learned in regard to the number and nature of the departments of the Hebrew government, and the officers by whom the administration of public affairs was conducted. The mixture of civil and military authority, which marks this constitution, the blending of the legislative and judicial functions in the same assembly, the union of various and, according to our way of thinking, somewhat incongruous powers in the priesthood, the apparent chasms‡ in the Mosaic legislation arising from the frequent retention by Moses of ancient consuetudinary

\* Louis Philippe.

† See on this subject D'Israeli's *Genius of Judaism*, c. 4.

‡ I say "apparent chasms," because what are chasms to us were not so to the Israelites, being supplied by a then well known law of usage: a "lex non scripta," corresponding to the common law among us.

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laws, without any formal introduction of them into the body of his own laws, and the extreme brevity of the history of the Israelitish state, as contained in the sacred books, are the causes of that obscurity, which has operated to produce this diversity of opinion. As far as I have been able to satisfy my own mind, the following statement embodies the radical features of this ancient and venerable polity.\*

Each of the Israelitish tribes formed a separate state, having a local legislature and a distinct administration of justice. The power of the several states was sovereign within the limits of their reserved rights. Still, there was both a real and a vigorous general government. The nation might have been styled the united tribes, provinces, or states of Israel. The bond of political union between the sovereign states appears to have been fourfold. In other words, there were four departments of the Hebrew government: viz. the chief magistrate, whether judge, high priest, or king; the senate of princes; the congregation of Israel, the popular branch of the government; and the oracle of Jehovah, a most interesting and singular part of the political structure. The form of a legal enactment might have run somewhat after this fashion:—"Be it enacted by the senate and congregation of Israel, the judge approving, and the oracle concurring." There was a judiciary system, in which causes of a sufficient magnitude could be carried up, through courts of various grades, till they came, for final adjudication, before a supreme national court, which held its session in the capital of the nation. Finally, on the

one hand, the organization of the tribe of Levi gave vitality to the whole system, acted as a counterpoise to the democracy, and restrained its excesses, while, on the other, the prophetic order maintained the rights of the people, and formed a powerful barrier against the encroachments of arbitrary power.†

\* Lowman on the Civ. Gov. Heb. C. 8.

† I do not here cite the particular Scriptures in support of these views

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A knowledge of the polity of the Hebrews prior to the time of Moses will help us in understanding his constitution, since he retained in it many of the ancient laws and institutions, sometimes unaltered, sometimes slightly modified. The simplicity of ancient manners rendered complicated methods of government unnecessary. The form actually employed by most nations in the earliest times' appears to have been patriarchal. To this rule the Hebrew polity does not form an exception. Abraham, Isaac, and Jacob governed their families with an authority well nigh unlimited. Their power over their households was little short of a sovereign dominion. They were independent princes. They acknowledged no subjection, and owed no allegiance, to any sovereign. They formed alliances with other princes.\* They treated with kings on a footing of equality.† They maintained a body of servants, trained to the use of arms; were the chiefs, who led them in war; and repelled force by force.‡ They were the priests, who appointed festivals, and offered sacrifices. They had the power of disinheriting their children of sending them away from home without assigning any reason,¶ and even of punishing them capitally.\*\*

The twelve sons of Jacob ruled their respective families

with the same authority. But when their descendants had become numerous enough to form tribes, each tribe acknowledged a prince as its ruler.†† This office, it is likely was at first hereditary in tint, eldest son, but afterwards became elective. When the tribes increased to such an extent, as to embrace a great number of separate households, the less powerful ones united with their stronger relatives, and ac-

since the passages on which they rest will be often referred to in the subsequent detail of the Hebrew institutions.

\* Gen. xxi. 22- 32.

† Gen. xiv. 24. xxxiv. 6- 19.

‡ Gen. xiv. 13- 16.

§ Gen. viii. 20. xxii. 13. Job i. 5

|| Gen. xlix. 3, 4. 1 Chron. v. 1 ¶ Gen. xxi. 14.

\*\* Gen. xxxviii. 24.

†† Numb 1.

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acknowledged them as their superiors. In this way, there arose a subdivision of the tribes into collections of households. Such a collection was technically called a family, a clan, a house of fathers, or a thousand.\* This last appellation was not given, because each of these subdivisions contained just a thousand persons, or a thousand households; for, in the nature of things, the number must have varied, and in point of fact, it is manifest from the history, that it did. As the tribes had their princes, so these clans, families, or thousands had their respective chiefs, who were called heads of houses of fathers, heads of thousands, and sometimes simply heads.† Harrington denominates these two classes of officers phylarchs, or governors of tribes, and patriarchs, or governors of families. Both, while the Israelites were yet in Egypt, were comprehended under the general name of elders.‡ Whether this name was a title of honor, like that of sheik (the aged) among the

Arabs, and that of senator among the ancient Romans, or whether it is to be understood, according to its etymology, as denoting persons actually advanced in years, is uncertain; probably, however, the former is the true sense of the term. These princes of tribes and heads of thousands, the elders of Israel, were the rulers of the people, while they remained still subject to the power of the Pharaohs, and constituted a kind of "imperium in imperio." Of course they had no written constitution, nor any very formal code of laws, but governed by custom, reason, and the principles of natural justice. They watched over and provided for the general good of the community, while the affairs of each individual household continued under the control of its own father. For the most part, it may be supposed, only those cases, which concerned the

\*Judges, vi. 15. 1 Sam. x. 19- 21. xxiii. 23. Numb. xxvi. 5- 50.

†Numb. xvii. 3. xxv 15. Joshua xxii. 14. xxiii. 2.

‡Exod. iii. 16. iv. 29

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fathers of families themselves would come under the cognizance and jurisdiction of the elders.

Such was the patriarchal form of government. It was found among all the branches of Abraham's posterity;—Ishmaelites, Edomites, and Israelites alike. Each of these, like the ancient Germans, the Roman gentes, and the Scottish clans, kept together in a body, according to their tribes and families. Every tribe formed a little commonwealth, having its own particular interests; while all united became a great republic, with a common weal. Thus we find the Ishmaelites governed by twelve princes, according to the number of Ishmael's sons.\* Their descendants,

the Beduin Arabs, have preserved the patriarchal polity to this day. They call their princes emirs, and their heads of clans sheiks,—elders,— under which latter designation, the Hebrews included both these orders of rulers. In like manner, the Edomites had what the sacred historian calls kings, but under them, again, stood a multitude of chiefs, styled princes, who ruled over so many clans.† The same arrangement took place among the Israelites. That there were twelve great tribes is known to all. That the tribes were governed, each by its own prince, that they were subdivided into clans, or groups of related families, having also their respective chiefs, and that these princes of tribes and chiefs of clans received the common appellation of "elders of Israel," will be evident to any one, who will take the trouble to compare the first chapter of Numbers with Exod. 3: 16, 4: 29, and 6: 14, 15.

Another order of officers, who, in the end, came to possess great dignity and power, likewise sprang up among the Hebrews, while yet in Egypt. These were the shoterim, in our version rendered "officers." That they were different from the judges is certain, since Moses ordained, that, when the Israelites came into the promised land, they should appoint

\* Gen. xxv. 16.

† Gen. xxxvi.

both judges and shoterim in every city.\* What the duties of these functionaries were, there is not much difficulty in determining. The emirs among the Arabians, a people very nearly related to the Hebrews, and retaining many of the ancient customs common to all the descendants of Abraham, have their secretaries, a class of officers evidently

very similar to the Israelitish shoterim. The most important business of the shoterim was to keep the genealogical registers; to record accurately the marriages, births, and deaths among the people; and probably, as they kept the rolls of families, to apportion the public burdens and services on the people individually. Modern governments, indeed, have no office exactly corresponding to this, because they do not regulate their affairs in this genealogical manner; they do not take the census of the people by families. But among a people like the Israelites, whose ideas were altogether clannish, a people, with whom all hereditary succession and all posthumous fame depended on genealogical descent, this must have been an office at least as important as that of a judge. The proof that this office existed in Egypt, is clear and certain; for the Hebrew shoterim were employed, under the direction of Hebrew overseers, to apportion and press forward the labors, exacted from the people.† It is likely, that originally the princes of tribes and chiefs of families performed the duties of genealogists, but that afterwards, to ease themselves, they employed secretaries to do the work for them, who came at length to constitute a distinct order of magistrates, under the name of shoterim.‡

\* Deut. xvi. 18. " Judges and officers (shoterim) shalt thou make thee in all thy gates."

† Exod. v. 6, 10, 14, 15.

‡ See on this subject, Michaelis's Commentaries on the Laws of Moses, Arts. 46- 51; Jahn's Hebrew Commonwealth, Ps. 2. Sect. 8; Lowman on the Civil Government of the Hebrews, e. 5; Lewis's Antiquities of the Hebrew Republic, B. 1. C. 4; Harrington's Commonwealth of Israel, chaps



Such was the polity, which Moses found established among his countrymen, when he returned to Egypt, after a forty years' residence in Midian. The time had now come, when, agreeably to the divine purpose, the chosen people were to be delivered out of the hand of their oppressors, and put in possession of the land of promise. They were no longer to pursue the nomadic life of their ancestors, but were to be settled, as an agricultural people, in fixed habitations. As a nation, they were designed to answer very important purposes in the divine plan. It was, therefore, necessary that they should receive new political institutions, suited to their new circumstances and high destination. To this end Moses led them to the foot of Sinai, where the tribes freely elected Jehovah to be their king, a solemn compact was formed between the sovereign and the people and the civil constitution was settled upon this foundation.\* Thus Jehovah, in accordance with the prevalent notion of those ages, condescended to be the national and tutelar deity of the Hebrews: his worship was made the fundamental law of the state; and idolatry became a political crime.

But the theocratic element in this constitution did not make a fourth form of government, in addition to the three forms, with which the world is familiar. It was not a political constitution, fundamentally different from the monarchical, aristocratical, democratical, and mixed forms of polity.† Warburton‡ has shown, that the theocracy continued to the coming of Christ. But during the period intervening between the establishment of the constitution by Moses and the birth of the Messiah, the government underwent many

1, 2; Salvador's *Histoire des Institutions de Moïse et du Peuple Hébreu*, B. 2. C.

2; and Horne's Introduction to the Critical Study and Knowledge of the Holy Scriptures, vol 2, Pt, 2, c. 1

\* Ex. 19. Jahn's Heb. Com. B. 2, S. 8.

† Mich. Com. Art. 35.

‡ Div. Leg. B. 5, S. 3.

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changes, and assumed a variety of forms. It was democratic till the time of Saul, monarchical from his accession to the throne till the captivity, and aristocratical after the restoration of the Jews to their own country; but through all these revolutions it retained the theocratic feature. We may, therefore, proceed in our study of this constitution, and in the attempt to present a true analysis of it, just as we would perform a similar labor in reference to the constitution of Rome, or of England.

The patriarchal polity, of which a brief sketch is given above, Moses retained unaltered. The subdivision of tribes into collections of families remained as it had been before. At the time of the exodus, the larger clans of this sort, exclusive of the tribe of Levi, amounted to fifty-eight, and their chiefs, in conjunction with the twelve princes of tribes formed a council of state, consisting of seventy members.\* It is evident, however, that the principle of subdivision was carried much farther than a perusal of the twenty-sixth chapter of Numbers would at first lead us to suppose. There must have been a division, not noticed by the historian, according to which the collections of families were far more numerous, and of course the number of heads of families far greater, for no less than two hundred and fifty chiefs of this rank joined the rebellion of Korah.† The princes of tribes and chiefs of families were

the natural representatives of the people and magistrates of the state.‡ They commanded their respective tribes in war, and guided their counsels in peace. They appear to be alluded to in the song of Deborah as those who "ride on white asses and sit in judgment;" a passage in which, I am inclined to think, there is a reference to this union in their persons of civil and military authority. Whether these officers were elective or hereditary seems hard to determine. Harrington§ considers them hereditary.

\* Numb. xxvi. Exod. xxiv. 1.

† Numb. xvi. 2.

‡ Jahn's Heb. Com. B. 2, S. 11.

§ Com. Is. C. 2.

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Jahn\* inclines to regard them as elective. Lowman† doubts. Michaelis‡ can find no trace of the manner in which they were chosen. I rather think that Jahn is right. At least it is certain, that the office was not strictly hereditary in the first-born of the tribe or the family. This is plain from the case of Nahshon. Though he was prince of Judah, he was not the heir-male of the tribe. He was the son of Aminadab, the son of Ram, who was a younger son of Hezron, the son of Pharez, himself a younger son of Judah, the original patriarch of the tribe.§ This certainly is not a proof that that office was elective, but it looks that way; and the analogy of other offices in the Hebrew government strengthens the probability.

Another order of functionaries retained by Moses, was that of the shoterim, translated in our bible "officers." In Num. 11:16, and Deut. 29:10, they are named in connection with the elders, that is, the princes of tribes and heads of families. They were, therefore, magistrates and repre-

sentatives of the people. However obscure and uninfluential their office might have been originally, it gradually acquired importance, till it came at length to be one of great dignity and authority. We have seen before, that they were the keepers of the genealogical tables. In Egypt, they were charged with seeing, that every Israelite delivered the required number of bricks.¶ It was their business to give their discharge to citizens, who were by law exempt from military duty.¶ Another function appertaining to them was to communicate to the people the orders of the general respecting military affairs.\*\* From the shoterim and elders together, as being persons of the highest respectability, the supreme senate of seventy was to be chosen.†† We find them repeatedly

\* Heb. Com. B. 2, S. 11.

‡ Com. on the Laws of Moses, Art. 46.      ¶ Exod. v. 10 seqq.

†† Numb. xi. 16.

† Civ. Gov. Heb. C. 5      §1 Chron. ii.

¶ Deut. xx. 5-9.      \*\* Josh. i. 10.

mentioned as forming a part of the legislative assemblies of the nation.\* And in the time of the kings, we find the chief shoter, though not a military commander, exercising a general superintendence and control over the whole army.† When the nation was settled in Palestine, the shoterim were distributed into every city, and performed the duties of their office for the city and its surrounding district.‡ They could not properly discharge their functions without having accurate catalogues of the names of the Hebrews, with a record of the age, pecuniary ability, and domestic circumstances of each individual master of a household. There appears evidently to have been a chief genealogist, who was the president of the whole order, and

exercised a general superintendence over the affairs entrusted to them. Several of these chiefs are mentioned by name under the kings. § In 1 Chron. 24: 6, and Jer. 52:25, mention is made of a "principal scribe of the host," that is, a chief shoter, "who mustered the people of the land" for war. How the shoterim were chosen the history does not distinctly inform us. There is little difficulty, however, in gathering from what it does say concerning them, that the office was elective. While the Hebrews dwelt in Egypt, and before the Levites had been set apart from the other tribes, and consecrated to letters and religion, they must either have been selected out of every clan, or, more probably perhaps, chosen from the whole tribe, irrespective of families, according to the opinion entertained of their fitness for the office. After the Levites had become fairly installed in their office, as the learned class, the genealogists were generally taken from among them. 11 "This was a very rational procedure, as the Levites devoted themselves

\* Deut. xxix. 10. xxxi. 28. Josh. viii. 3. xxiii. 2.

† 2 Chron. xxvi. 11.

‡ Deut. xvi. 18.

§ 2 Sam. viii. 17. xx. 25. 2 Kings xxv. 19. 1 Chron. xxiv. 6.

2 Chron. xxvi. 11.

Jer. lii. 25.

11 Chron. xxiii. 4.

2 Chron. xix. 11.

xxxiv. 13.

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particularly to study; and, among husbandmen and unlearned people, few were likely to be expert at writing, as to be entrusted with the keeping of registers so important."\*

The magistracies, thus far noticed, formed a part of the polity of the Hebrews, before the exodus from Egypt. But,

by the advice of Jethro, which was confirmed by their king Jehovah, Moses instituted a new order of rulers, which must now be explained.† Although in Egypt the Hebrews had a sort of political government among themselves, yet it is not to be supposed, that they would be permitted to hold regular courts for the trial of civil causes. Hence they had no judges in their bondage, being subject to Egyptian magistrates in that capacity. On their leaving Egypt, Moses took the whole judicature upon himself, and was for some time sole judge. But this was too much for mortal strength, and, from the little attention that could be given to each individual case, not altogether consistent with the public interest. His father-in-law, who appears to have been a man of great judgment and wisdom, convinced him of this, and by his advice he instituted judges. The principle, on which he arranged the institution, was a remarkable one, and must have been suggested by the military divisions of the people. He appointed judges for thousands, hundreds, fifties, and tens; in all about seventy-eight thousand six hundred.‡ There was a regular gradation of rank among these judges, and, in all probability, such a subordination of the inferior to the superior, that the cases which the judges of tens found too hard for them, they referred to the judges of fifties; in the same manner, the cases which these latter found too difficult to decide, they passed over to the judges of hundreds; questions too intricate or too important in the opinion of the judges of hundreds for their determination, they carried up to the judges of thousands;

\* See on the office of the shoterim Mich. Com. Art. 51, and Jahn's Heb. Com. B. 2, S. 11.

† Exod xviii.

‡ Exod. xviii. 25.

who, in their turn, referred difficulties too great for their resolution to Moses, or, after his death, to the supreme judicial authority, in whomsoever lodged. The principle of this judiciary system was, that the administration of justice should be brought to every man's door, and of course that it should be prompt and cheap; notwithstanding which, care was taken to avoid the evils of hasty and partial decisions, by the right of appeal to tribunals of a higher grade, when the case was of sufficient magnitude to warrant such a resort. This principle was retained in the judicial system of the nation, after its settlement in Palestine. But the system itself necessarily underwent some modifications. It could not remain exactly as it was; for the people no longer lived together, as in the wilderness. On their taking possession of the promised land, judges, as well as shoterim, or genealogists, were to be appointed in every city,\* who were to discharge the duties of their respective offices for the city and the surrounding district. Yet even the plan proper for Israel as an army marching was not altogether unsuited to their settlement in permanent habitations, as tribes and families. The military division might have its counterpart in a civil division into counties, centuries, and decuries. The old Saxon constitution of sheriffs in counties, hundreders or centgraves, in hundreds, and deciners in decennaries, was formed upon this model. Lord Bacon† is of the opinion, that king Alfred took this frame of government from the laws of Moses. Whether the judges were to be natives of their respective cities, or even of the tribe in whose territory the cities were situated, or whether the fittest persons were to be chosen, without regard to tribe, family, or residence, does not appear from the history. The latter supposition is rendered probable by the fact, that in after times the office was very generally filled by Levites.‡

\* Deut. xvi. 18.

† On Eng. Gov. P. 1. P. 70. cited by Lowm. on Civ. Gov. Heb. C. 9.

‡ 1 Chron xxiii. 4: xxvi. 29- 32. 2 Chron. xix. 8- 11.

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This might, not improbably, have been the intention of Moses, which he did not seek to render effective by any legal enactment, as foreseeing, that the thing would happen naturally, since the Levites, devoted to learning by the very constitution of their tribe, would best understand the laws of the land. Besides, it is quite conformable to the ideas of those times, and not foreign to the notions and manners of the east in all ages, that the judicial and sacerdotal offices should be united in the same persons. Among the ancient Egyptians, the priests were the usual administrators of justice.\* The Arabs resorted to the temples and the priests for justice. Before the time of Mahomet, they even carried on law-suits before their gods. This he prohibited;† but to this day, the seat of justice is commonly called by the Arabs God's tribunal; and the usual form of citation is, "Thou art invited to the tribunal of God."‡

The chief function of the Israelitish judges was to administer justice between man and man.§ It is possible, and, looking to the general spirit and frame of the Hebrew constitution, not improbable, that they united some degree of military power to their civil authority. They are mentioned as among the persons summoned by Joshua to the legislative assemblies.|| **It is hardly probable, however, that the seventy two thousand judges of tens and fifties had seats and voices in these diets. It is more likely, that only those of hundreds and thousands, perhaps even only the latter of these classes, are to be under-**



**stood, when judges are mentioned as constituting a part of the public deliberative assemblies of the Hebrews. ¶**

\* Jablonski's Pantheon, p. 102 of the Prolegomena, cited by Mich. Art. 49.

† Koran, Sura iv. 61- 64 and v. 46- 55.

‡ Arvieux's Travels through Palestine in Mich. Com. Art. 49.

Deut. xvi. 18. || Josh. xxiii. 2, xxiv. 1.

¶ On the subject of the Heb. Judges see Mich. Com. Art. 49; Jahn's  
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The judicial office among the Hebrews was elective. Josephus says so expressly, though with hardly greater plainness than Moses. "Take you wise men, and understanding, and known among your tribes and I will make them rulers over you,"\* were the lawgiver's words to his countrymen, when he instituted the office. The only function which he here claims for himself; is that of commissioning those whom the people should elect. Even the supreme judge was chosen by the free suffrages of the people. The historian distinctly informs us, that " the people made Jephthah head and captain over them."† Four stages may be noted in the proceedings relating to Jephthah;—the preliminary discussion, the Domination, the presentation to the people, and the installation.‡ The enemy was encamped in Gilead. At this point, the people and their rulers, assembled in convention on the plain said to one another, "Who shall be our chief, to lead us against the foe?" This was the discussion, in which every citizen seems to have had the right to participate. In the exceedingly brief history of the affair, it is not expressly stated, but it is necessarily implied, that Jephthah, of Gilead, a man of distinguished military genius and reputation, was

nominated by the voice of the assembly. But this able captain had been some years before driven out from his native city. It was necessary to soothe his irritated spirit. To this end the elders went in person to seek him, laid before him the urgent necessities of the state, softened his anger by promises of preferment, and brought him to Mizpeh. Here, manifestly, they made a formal presentation of him to the people, for it is added, "the people made him head and captain over them." That is, they completed the election by giving him their suffrages, recognizing him as their leader,

Heb. Com. B. 2, S. 11; Lowm. Civ. Gov. Heb. c. 9; and Harrington on the Com. of Israel, c. 2.

\* Deut. i. 13.

† Judg. xi. 11.

‡ Ibid. x. 17,18. and xi. 1- 11.

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and installing him in his office. Here, then, we have, 1. the free discussion of the people in a popular assembly concerning the selection of a leader; 2. The nomination of Jephthah by the meeting to be chief; 3. The elders' presentation of him to the people for their suffrages; and 4. His inauguration as prince and leader of Israel. It is to the analysis of such incidental relations as this scattered here and there through the history, that, in default of a more exact account of the primitive order of things, we are compelled to resort, in our study of the Hebrew constitution, for much of the information, which it would be gratifying to find in a more detailed and systematic form.

The magistrates, then, in every tribe were a prince of the tribe, chiefs of families or clans, genealogists, and judges. "Each of these classes of magistrates had its own peculiar duties. The judges administered justice. The genealogists kept the genealogical tables, in which they occasionally

noted the most remarkable occurrences of their times. The historical notices contained in the first book of Chronicles, and which are not found in the books of Moses, were probably derived from these tables.\* The heads of families, with the prince of the tribe, had charge of the general concerns of each tribe, and to them the judges and genealogists were in some degree subordinate. In Palestine these magistrates were distributed into the several cities, and those who resided in the same city, composed the legislative assembly of that city and the surrounding district. When the magistrates of all the cities belonging to any one tribe were collected, they formed the supreme court, or legislative assembly, of the tribe. In like manner, the magistrates in several different tribes might assemble in one body, and legislate conjointly for all those tribes which they represented. When the magistrates of all the tribes met together, they formed the general legislature of the whole nation. Though there

\* 1 Chron. iv. 21- 23, 39- 45, v. 10, 19- 22. vii. 20- 24,

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was no pecuniary emolument attached to these offices, they conferred great dignity and authority upon those who held them."\*

Such is a brief view of the magistracies, instituted or confirmed by the Mosaic constitution. Let us now direct our attention to the tribes themselves in their individual capacity, in their relation to one another, and in their legislative functions.

It is agreed, on all hands, by those who have written on the Hebrew institutes, that each tribe formed a separate

state. Each composed an entire political community, in some respects independent of the others. Each was under its own proper government, administered its own affairs by its own representative assemblies and magistrates, and claimed and exercised many of the rights of sovereignty. Its local legislation and municipal arrangements were in its own hands. "Dan," says the venerable patriarch Jacob, "shall judge his people, as one of the tribes of Israel." On this, bishop Sherlock,† an author of great learning and judgment, observes: "It is evident, that every tribe had its own prince and judge, and that every prince or head of a tribe judged his own people; consequently every tribe had a sceptre and lawgiver, as well as the tribe of Judah." In other words, every tribe had its own proper staff of command and a distinct administration of justice." The princes of the tribes, chiefs of families, judges, and genealogists governed the tribes of Israel, as distinct and independent sovereignties. The tribes were all equal in respect of political dignity and right. The sovereignty of Simeon, which numbered but twenty- two thousand men capable of bearing arms, was as complete as that of Judah, which had seventy- six thousand. No one tribe had any political superiority or right of command over any other. This is plain from the

\* Jahn's Heb. Com. B. 2. S. 11. † Dissertation 3.

‡ Lowm Civ. Gov. Heb. c. 5.

fact, that on the death of Joshua, the people inquire of God, "who should go up for them against the Canaanites?"\* This question could not have been asked, if any one tribe had had the right of precedence and government

over the rest. The answer was, "Judah shall go up."† Judah thus acquired the right of leading by a decision of the oracle; a clear proof; that such a right did not otherwise belong to that tribe.

The powers reserved to the separate tribes, and freely exercised by them, were very great. We find them often acting like independent nations. This was the case not only when there was neither king nor judge, in the land, but even under the government of the kings. · They levied war and made peace, whenever it seemed good to them. Thus we find Joshua exhorting his brethren, the children of Joseph, to make war against the Perizzites;‡ and Zebulon and Naphthali uniting, to fight against Jabin.§ We see the tribe of Dan, singly and of its own proper motion, attacking and destroying the people of Laish, and afterwards taking possession of their city and the surrounding country. A very remarkable record of this kind is contained in the fifth chapter of 1 Chronicles.|| It is there related, that the tribes beyond Jordan, even in the reign of Saul, carried on, upon their own responsibility, a most important war. Yet so little interest was taken in it by the other tribes, that the author of the book; of Samuel has not so much as alluded to it in his history of that prince; though, in a military point of view, it was a far more brilliant affair than all his martial achievements together. Four nations were leagued together against the trans-jordanic tribes in this war. The booty taken from the enemy was immense;— fifty thousand camels, two hundred and fifty thousand sheep, two thousand asses, a hundred thousand prisoners of war; and of slain. the historian says, " there fell down many." The

\* Judg. i. 1.

† Ibid. i. 2.

entire territories of these nations came into the possession of the Hebrews as the fruit of this contest, "and they dwelt in their steads until the captivity." As late as the reign of Hezekiah, we see the tribe of Simeon waging two successful wars,—one against the inhabitants of Gedor, and the other against the remnant of the Amalekites,—and that without aid or authority from its neighbor republics.\*

Some occurrences of a different kind, in the history of the kings, will further illustrate the powers, which the constitution conferred upon the separate tribes. By divine direction, David had been anointed king in the life-time of Saul.† That unction, however, did not inaugurate him as king, nor confer any authority upon him. It was rather a prophecy in action, foreshadowing his future elevation to the throne. Therefore, when Saul had fallen in battle, David returned, as a private person, to one of the cities of Judah. There he awaited the action of the people in his behalf. At first he became king of Judah alone, and that by the free choice of the citizens of that tribe.‡ In the message, which he sent to the inhabitants of Jabesh-Gilead, thanking them for their kindness to Saul, he does not arrogate any right of command over them, nor address them in quality of sovereign. He simply informs them, that the men of Judah had chosen him for their king, thus virtually inviting them to follow the

\* 1 Chron. iv. 41-43.

† 1 Sam. xvi. 13. Dr. Clarke, in his note on 2 Sam. ii. 4, remarks: "David was anointed before by Samuel, by which he acquired *jus ad regnum* a right to the

kingdom; by the present anointing he had jus in *regno*, authority OVER the kingdom."—"The invisible king directed the prophet Samuel to assure the throne privately by a prophetic anointing to David, the youngest son of Jesse, a citizen of Bethlehem.' Jahn's Heb. Com. B. 4, S. 28. It will be seen, that the views of these eminent scholars accord with those expressed in the text as to the nature and object of David's unction by Samuel.

‡2 Sam. ii. 1-4

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example.\* Meanwhile, the other eleven tribes had anointed Ishbosheth, the son of Saul, as their king.† It is evident, that David did not regard that as an illegal act on their part, for he limited his hostile movements simply to defending himself, when attacked by the armies of Ishbosheth. Joab, his general-in-chief, had no orders to attack the troops of his rival, or to maintain his own claim to the throne by force of arms. Ishbosheth reigned two years without any rupture with David or his men; nor did the civil war commence, till Abner, captain of his host, crossing over Jordan with his forces, provoked an encounter. Joab, in a conference with Abner, intimated that he would not have attacked the adherents of David's rival, unless he had been provoked to it; thus clearly showing that his orders were to act only on the defensive.‡ One after another, the eleven tribes came into the interest of David; and at length the whole nation chose him for their king, and made a league with him, that is, proposed a capitulation limiting the royal prerogative, to which he solemnly assented; after which he was anointed sovereign of all Israel, as having been elected by the voice of the people to that high dignity.§

The many and heavy exactions, to which the people had been subjected during the reign of Solomon, had greatly

exasperated their minds. Towards the close of his life, their complaints became loud and bitter. On his death, they proposed to his son Rehoboam, certain new stipulations, with a view to lighten statement public burdens. Their request, though reasonable, was insolently and contemptuously rejected by the fiery young monarch. Thereupon ten of the tribes refused their allegiance to the new government, and chose a king of their own. It would almost seem as if this was not an act of

\* 2 Sam. ii. 5-7 † Ibid. ii 8-9.

‡ Ibid. ii. 12- 29. See especially v. 27, as confirming the last statement in the text.

§' 2 Sam. chaps. iii. iv. v. and xii.—particularly the last.

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rebellion but the exercise of a reserved right; for Judah was forbidden by the Lord to make war upon the ten tribes. At any rate, an instantaneous revolt of this kind could not have occurred, unless the Israelites had been governed, as Michaelis expresses it, "tribe-wise," each tribe being a little republic, and having its own leading men, according to whose views the rest of the people regulated their conduct.

From the above detail it appears, that "the Hebrew constitution authorized each tribe to provide for its own interests; or, if the strength of any one of them was insufficient for the purpose, to unite with some of the other tribes, and make common cause with them. We frequently find several tribes thus acting in concert. Judah and Simeon united in their war against the Canaanites; as did also Ephraim and Manasseh. The tribes of Zebulon and Naphtali united



with Barak to oppose the army of Jabin. Manasseh, Asher, Zebulon? and Naphthali, chose Gideon for their leader against the Midianites. The tribes east of Jordan made choice of Jephthah for their general to carry on a war against the Ammonites. In later times, and during the reign of Saul, the same tribes made war upon the Hagarites, the Ituraeans, the Nobadites, and the Naphishites. Upon the death of Saul, eleven tribes remained faithful in their allegiance to his family, and seven years intervened before they submitted to David. After the death of Solomon, ten tribes revolted from the house of David, and elected Jeroboam for their king. In short, any tribe, or any number of tribes united, exercised the power of convening legislative assemblies, passing resolves, waging wars, making treaties, and electing for themselves chiefs, generals, regents, and kings.?"\*

\* Jahn's Heb. Com. B. 2, S. 13. The passages on which Dr. Jahn relies for the statements made in this extract are,—Judg. i. 1-3, 22. nit 23, 29 viii. ] - 3 xi 1- 11. 1 Chron. v. 10, 18,19. 2 Sam, iii. 17. 1 Kings xii. 1- 24.

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In such a constitution of the tribes, various disturbing forces could not but exist; and the history informs us of the action of these antagonistic forces upon several occasions Rivalries would naturally spring up among twelve sovereign states so closely connected with each other. Lesser interests would sometimes stand in the way of the general welfare. Hence arose jealousies, which sometimes issued in fierce, sanguinary, and protracted civil wars.\* All this we may readily believe from the examples of Holland, Switzerland, the United States, and especially of the German empire, which, from the inequality of its constituent parts, is perpetually distracted by divisions, and has often

been the scene of intestine hostilities. Nothing, then, could be more probable than sectional jealousies and rivalries among the constituent members of the Hebrew commonwealth; and Michaelis has well remarked,† that two cases may be supposed, in which they would certainly break out, and display all their mischievous effects:—1. If any two tribes became more powerful than the others, in which event they would regard each other with suspicion and hatred; and 2. If any one tribe acquired considerable ascendancy over the rest, of which the consequence would be, the excitement of their universal envy and opposition. The learned commentator adds, that both these cases actually occurred in the Israelitish republic; a fact of so much importance, that it may be said to form the key to the whole Hebrew history. The Israelites entered Palestine with a force of six hundred thousand citizens, capable of bearing arms, exclusive of the tribe of Levi. Of course, the medium strength of the tribes would be about fifty thousand. Those tribes, which exceeded that number, would be accounted strong; and, in like manner, those which fell below it, would

\* Judg. xii. 1-6. xx. 1-48. 2 Sam. iii. 1. 1 Kings xii. 16-24.

† Commentaries on the Laws of Moses, Art. 46;—an article to which I acknowledge my indebtedness in illustrating this part of my subject, since I have embodied the valuable substance of it in these paragraphs.

be deemed weak. It may gratify the reader to see the comparative strength of the tribes, at this time, brought into one view. This is done in the following statement, in which fractions of thousands are omitted for the sake of brevity. The tribe of Joseph numbered eighty-five thousand; Judah, seventy-six thousand; Issachar, sixty-four

thousand; Zebulon, sixty thousand; Asher, fifty-three thousand; Dan, forty-six thousand; Benjamin, forty-five thousand; Naphtali, forty-five thousand; Reuben, forty-three thousand; Gad, forty thousand; and Simeon, twenty-two thousand.\* It will not escape the notice of the reader, that one tribe, that of Simeon, was very weak; that two, Joseph and Judah, were very powerful; while the others did not vary materially from the average strength. The tribe of Joseph was, indeed, divided into two half-tribes; but it was still, and even as late as near the close of Joshua's administration, regarded and spoken of as one tribe.† Ephraim, however, in consequence of the prophetic blessing of Jacob, and the predictions concerning his future extraordinary increase,‡ though as yet numerically weak, in comparison with Manasseh, was regarded as his superior, and, indeed, obtained a certain preeminence over all the other tribes. From this time, therefore, we find a perpetual emulation and rivalry existing between the two tribes of Ephraim and Judah. This sentiment of jealousy, sometimes reaching even to hatred, displayed itself on all occasions; and allusions to it are not infrequent in the prophetic writings.§ It is very distinctly recognized by Isaiah,|| when, foretelling the peaceful effect of Messiah's reign, he says, " And the envy of Ephraim shall depart, and the enemies of Judah shall be cut off. Ephraim shall not envy Judah, and Judah shall not vex Ephraim." The prophet predicts a state of harmony and

\* Numb. xxvi.

† Josh. xvii. 17.

‡ Gen. xlvi. 15- 20.

§ Judg. viii. 1 xii. 1. 1 Kings xi. 26; xiv. 30; xv. 16. Ps. lxxvii. 11, 60, 67, 68. Is. xi. 13. Jer. iii. 18. Ez. xxxvii. 16- 19. Hos. i. 11.

|| xi. 13.

peace by declaring, that the hereditary and proverbial enmity of Judah and Ephraim shall cease.\* Throughout the entire Hebrew history, from the exodus to the captivity, these two were regarded as the leading tribes of Israel. In the wilderness, Moses gave the precedence of all the tribes to Judah, in assigning to it the most honorable place in the army, whether in the camp or on the march.† But after his death, two events occurred, which tended greatly to the exaltation and preeminence of Ephraim. That tribe had the good fortune to give to the nation a chief Magistrate in the person of Joshua, and also to have the tabernacle, the palace of their invisible, heavenly king, set up in Shiloh, a place within the territory of Ephraim.‡ Both these circumstances advanced the honor of the tribe; and the latter, by promoting trade and marriages, gave it no inconsiderable advantages, in respect of the increase of wealth and population. From that time, the ambition of Ephraim knew no bounds. The jealousy of the Ephraimites towards the other tribes appears in their conduct to Gideon and Jephthah.§ Their special jealousy of Judah showed itself in their refusal to submit to David, after the death of Saul;|| in their adherence to Absalom, when he revolted against his father;¶ and in the readiness with which they joined in the revolt of Jeroboam, who was himself of the tribe of Ephraim.\*\* The author of the seventy eighth Psalm†† represents Ephraim as having been the chief tribe, and God as having rejected it for its political and religious apostacy, when the tabernacle and the kingdom were transferred to Judah. Even while Ephraim continued the most influential tribe, Judah enjoyed a more extensive sway, than the other tribes to the west of the Jordan. When

\* Alexander on Isaiah,—note on Ch. xi. 13.

† Num. ii. 3. x. 14. ‡ Josh. xviii. 1. 1 Sam. iv. 3.

§ Judg. viii. 1. xii. 1. || 2 Sam. ii. 8, 9. ¶ Ib. xviii. 6.

\*\* 1 Kings xi. 26. xii. 16. See Alexander's note on Is. xi. 13.

†† vv. 9-11, 60, 67, 68.

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the monarchy was substituted for the democracy, a king was elected from Benjamin, the youngest and weakest of all the tribes. This seems to be a perfect levelling of the tribes. Apparently no preference was given to any of them on account of any preeminence in dignity, or power, supposed or real. It; however, we look a little below the surface of things, we shall judge otherwise. We must bear in mind how exceedingly genealogical and clannish was the way of thinking among the Hebrews. This will throw no little light upon the point. As Benjamin and Joseph were sons of the same mother, the Benjamites regarded themselves as in some sense belonging to the tribe of Joseph. Of this we have a certain proof in the fact, that Shimei, though a Benjamite, said, that he was the first man of all the house of Joseph to meet king David, when he returned victorious, after crushing the rebellion of Absalom.\* Hence, even when Benjamin was advanced in the person of Saul to the leadership of Israel, Ephraim still enjoyed a certain preeminence. In the 80th Psalm, composed about this time, Ephraim, Benjamin, and Manasseh are mentioned as the chief tribes, Ephraim being placed before the other two. The rivalry between the tribes continued, with unabated force, during the reign of Saul. That king had but little authority in the tribe of Judah; for, when he was pursuing David with the bitterest enmity to take his life, David had little difficulty in eluding him, by fleeing from place to place within the limits of that tribe. And

when at last he fled into the land of the Philistines there does not appear to have been any necessity for his doing so. He might have remained where he was, without much peril of a capture. On the other hand, Saul, as king, was very partial to his own kindred, including, beyond a doubt, the children of Joseph, as well as those of Benjamin. Upon them he conferred most of the offices within the gift of the crown. This he openly acknowledged, and made

\* 2 Sam. xix. 20

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it the ground of a claim to their gratitude and support.\* When Saul fell in battle, eleven of the tribes, doubtless under the lead of Ephraim, adhered to his family, and chose Ishbosheth for their king. Judah alone recognized David as their sovereign. But David was a man of consummate ability and great nobleness of character. He acted with prudence, moderation, and magnanimity. These are qualities, which never fail to excite the admiration and love of the people. They so won upon the tribes of Israel, that, by degrees, they all voluntarily submitted themselves to his rule. It was the surrender of their hearts rather than of their arms. The civil and military talents of David were equal to each other, and both were of the highest order. Under his administration, the territories of the state were greatly enlarged; its wealth and power were increased; and its renown was spread far and wide. Its name struck terror, not only into the petty tribes in its immediate neighborhood, but into the great nations dwelling on the shores of the distant Euphrates. The tribe of Judah now became exceedingly powerful. Its numbers were incredibly multiplied, the effect not merely of the natural increase of population, but also of the multitude of foreigners, who

flocked to its capital, and became proselytes to the Jewish religion. Even before this time, the other tribes had begun to be called by the common name of Israel.† Thenceforward Israel came to be their ordinary designation, and they were animated by a common jealousy of the tribe of Judah.‡ It was in this sentiment, that the roots of that unnatural rebellion excited by Absalom, found a congenial soil. The extraordinary success of that patricidal revolt has been the puzzle of many, and is wholly inexplicable, except as the result of a deeply seated and long cherished animosity on the part of the other tribes towards the tribe of Judah. This animosity even broke out,

\* 1 Sam. xxii. 7.

‡ 2 Sam. xix. 11, 40-43. xx. 1, 2.

† 2 Sam, ii. 9,

and raged violently, on the king's return. A strife arose between Judah and the other tribes, as to which should recal him to the throne, and it came near ending in a revolt of the eleven tribes from David.\* The power and splendor of the tribe of Judah culminated in the reign of Solomon. David and Solomon, kings of the house of Judah, were no common men. For seventy three years did the other tribes submit to their government, awed by the splendor of their genius, the force of their character, and the vigor of their rule. But the fire was all the while glowing under the ashes, and waited but an occasion to burst forth in fierce and devouring flames. That occasion was found in an imprudent declaration of Rehoboam, the son and successor of Solomon, on his accession to the throne. Ten of the tribes, led by Jeroboam, an Ephraimite, revolted, shook off

their allegiance to the kings of Judah, and set up a separate kingdom, with Jeroboam for their king.† He takes but a superficial view of the Hebrew history, who regards the conduct of Rehoboam, however unwise or even unjust it might have been, as the cause of this schism. It was but the occasion, the pretext. The cause was the old grudge of Ephraim against Judah. The separation was not a sudden occurrence; it was not fortuitous; it was but the natural result of causes, which had long been working. It is very remarkable, that, of all the kings who reigned over Israel, although they were very far from succeeding one another in the line of hereditary descent, there was not one that did not belong to Ephraim; so that, with the single exception of Saul, all the Hebrew kings were natives of one or other of the two rival tribes.

As the result either of an admirable stroke of policy on the part of David, or of an equally admirable good fortune, Benjamin, after the separation, remained united to Judah, and the two tribes eve' afterwards formed one kingdom. The event, to which I refer, was the choice by David of the city

\* 2 Sam.

xix. 9- 14.40- 43.xx.

1, 2.†I Kings xii. 1- 20.123

of Jerusalem for his residence and capital. This city was within the territory of Benjamin, but it lay close to the confines of Judah, and had long been inhabited by members of the latter tribe, as well as of the former. David's selection of it for the royal residence was well calculated to flatter the pride of the Benjamites, and unite them more closely to his family. It appears to have had the effect to extinguish the jealousy, which Benjamin, in common with Ephraim, had felt towards the tribe of Judah. At all events,



its issue was, as stated above, to link the fortunes of these two tribes together in indissoluble bonds.

Such, then, were the jealous rivalries, which, sometimes more and sometimes less active, we find always subsisting among the tribes of Israel; and such the bitter fruits, which they produced. But it was not ambition alone, which disturbed the peace of the nation, and caused the blood of the citizens to stream forth in civil strife. Great as the reserved rights of the tribes were, they occasionally magnified them beyond their just bounds and betrayed a strong disposition to nullify the laws of the general government. But such a procedure was at the peril of the tribe engaging in it. In the book of Judges\* we have a painfully interesting account of an act of nullification on the part of Benjamin; wherein we see, that the authority of the national law was vindicated by the other tribes with a severity, bordering on barbarism. The tribe of Benjamin was prophetically described as a ravening wolf;†—a figure highly descriptive of its fierce and warlike character. The case, to which I refer, was this. A Levite and his wife were travelling peaceably through the territories of Benjamin. At Gibeah, some demons in the form of men, called by the historian "sons of Belial," abused the latter in such a way as to cause her death. The Levite appealed for retribution to the tribes in a general court. With the exception of Benjamin, they assembled at once in convention at

\* Chaps. xix, xx,

† Gen xlix 27.

Mizpeh. There, the states-general, in regular session, heard the appeal to their justice. They carefully examined into the facts of the case. They found certain of the inhab-

itants of Gibeah guilty, not only of a violation of the rights of hospitality and humanity, and of a riotous breach of the peace, but moreover, which, in a national point of view, was of greater importance, of a breach' and violation of the common right of the tribes to a safe passage through the whole country. It was, therefore, not so much an injury to any private persons, as to the tribes of Ephraim and Judah, to which the Levite and his wife belonged. Indeed, it was an injury to all the tribes in common, since the case of Ephraim and Judah might become the case of any of them. No man in all Israel could have any security in travelling, if such open outrage and violence were suffered to go unpunished. But the tribes were independent of each other. No one tribe had jurisdiction over any of the rest. Benjamin was a sovereign state. Neither Judah nor Ephraim could, by the constitution, call the inhabitants of Gibeah to account. This was, therefore, a case calling for the interposition of the states- general. Yet even they could not proceed directly against the guilty parties. That would have been in derogation of the sovereignty of Benjamin. Therefore, having by investigation satisfied themselves of the facts in the case, they sent a summons to the tribe of Benjamin to deliver up the delinquents, that they might be dealt with according to law. Benjamin declined a compliance with this summons, and determined rather to dissolve the union of the states than submit to the will of the nation, though expressed in a deliberate, dispassionate, and constitutional manner. This changed the entire case. It was no longer the murder of a private person by some ill-disposed individuals of the city of Gibeah, but an open rebellion of the whole tribe of Benjamin. The authority of the national union was opposed and set at naught. And, not content with refusing to give up the murderers to justice, Benjamin raised

an army to protect them, and levied war against all Israel. The rest of the tribes declared them in a state of rebellion, and proceeded against them accordingly. So stubborn and unbending was the spirit of the nullifying tribe, that the national army was twice defeated. But in the third battle Benjamin was routed, with the loss of twenty-five thousand men; and there was no danger of the offence being repeated, for the offending city was levelled with the ground, the country was made a wilderness, and six hundred men, posted on the inaccessible rock of Rimmon, were all that remained of the contumacious tribe.\*

From this history of the Benjamite rebellion the passage is natural to a consideration of the union of the tribes in a general government; for, while the history illustrates the distinct nationality and independent spirit, I might almost add the turbulent temper, of the separate tribes, it affords, at the same time, a proof and an example of the reality, strength, and vigor of the national administration. The central government was not a mere confederacy of states. Such an organization would have been too feeble, and too tardy in its action, for the elements, which it was intended to control. It was a GOVERNMENT in the proper sense of the term, and not a CONFEDERATION. Moses drew up a constitution, which applied, not merely to each tribe as a distinct political body, but also to the individuals in the tribe. He made it bear on every individual in every tribe, thus giving to each a personal interest in the national concerns, and making him as much a member of the nation, as he was of his own tribe.† The tribes formed but one nation. And though they had separate interests, as being in

some respects independent states, they had also general interests, as being united in one body politic. They had much in common to

\* Lowm. Civ. Gov. Heb. C. 14. Chr. Exam. No. 76.

† Chr. Exam. No. 76.

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draw them together in bonds of brotherhood, and strengthen the ties of political union;—a common ancestor, the illustrious depository of promises appertaining to all the tribes alike; a common God, who was their chosen and covenanted king; a common tabernacle and temple, which was the royal palace; a common oracle, the urim and thummim; a common high priest, the prime minister of the king; a common learned class, who possessed cities in all the tribes a common faith and worship, which at the same time differed fundamentally from that of all other contemporaneous nations; and a common law of church and state.\* Thus, while each, Hebrew was strongly concerned to maintain the honor of his tribe, the constitution of the general government gave him an equal interest in the honor of his country.

Thus we see, that the constitution was so contrived, that, notwithstanding the partial independence and sovereignty of the separate tribes, each, as constituting a part of the national union, had a kind of superintendence over all the rest, in regard to their observance of the law. Any of the tribes could be called to an account by the others for an infraction of the organic law: and, if they refused to give satisfaction, they might be punished by war.† Obedience to the states-general, in whom the tribes were united into

one government, was a fundamental obligation of every member of the national union. On this point the constitution was imperative. Disobedience to their orders, a rebellious opposition to their authority, was an act of high treason;—the greatest crime that can be committed, since it is an injury, not to any one man, or any number of private persons, but to the whole society, and aims at subverting the peace and order of the government, on which the property, liberty, happiness, and life of the citizens depend‡

Let me adduce two proofs of this obligation on the part

\* Jahn's Heb. Com. B. 2. S. 13. † Ibid. Judg. xx. ‡ Lowm. Civ. Heb. c. 14.

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of the tribes to submit to the will of the nation, as embodied in the resolves of the general government.

The first is taken from a record, which I find in the thirty sixth chapter of Numbers.\* By a law, passed some time before, constituting daughters, in default of sons' the legal heirs of their fathers, it would happen, that the inheritance of the daughters of Zelophehad, who belonged to the tribe of Manasseh, if they married into another tribe, would be transferred from their own to their husband's tribe. This, should it ever occur, Manasseh thought would be a hardship and a wrong. What course did that tribe pursue? She did not attempt to rebel against the authority of the nation, and nullify the laws of the land. She brought the case before the national legislature, and sought relief through its action. She appealed to the justice of the nation in congress assembled, just as the states of our union do. Her

petition was respectfully considered, and a law was enacted in accordance with its prayer. By this law, heiresses were

\* The critical reader, who examines the references to see whether they sustain the text, might, on a cursory perusal of the chapter here cited, be inclined to think, that in the view presented in this paragraph, too much is rested on assumption. A deeper study of the subject, however, will be apt to change such an impression. For, first, either the first eleven verses of the 27th chapter should come in before this chapter, or this chapter should come in immediately after those eleven verses, since, as Dr. Clarke says, both certainly make parts of the same subject, and there it is expressly said, that the matter was brought "before Moses, and before Eleazar the priest, and before the princes, and before all the congregation," and by them referred to the oracle. Secondly, even in this chapter, the chiefs of Manasseh are related to have laid their petition before Moses and the princes, who may here very well be taken, in a general sense, to mean the whole diet. And, thirdly, even if this chapter stood wholly disconnected with the 27th chapter, and neither the diet nor any part of it had been mentioned at all, still the analogy of numerous other cases in the Hebrew history would authorise us to assume, that the matter had been, in due form, laid before the states-general of Israel, and by them solemnly adjudicated.

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required to marry in their own tribes, that no part of the ancient inheritance might be alienated from the original family. It is plain, that, if the decree of the nation had been different from what it was, Manasseh's duty would have been submission. Resistance and nullification would have been in derogation and contravention of rightful authority.

The second proof of the duty of obedience on the part of the tribes to the decrees of the general government, I derive from the history of the wrong done by certain Benjamites to a Levite, who was passing through their territory, taken in connexion with the national proceedings, which followed thereupon.\* The states-general immediately convened at Mizpeh, and passed a resolve, calling upon the local government of Benjamin, to deliver up the

offenders, that they might be dealt with as their conduct deserved. This order Benjamin refused to obey. What said the national government? Did it say, that Benjamin, being a sovereign state, had a right to interpret the constitution for herself, and to act her own pleasure in the matter? Far from it. It declared, that she had been guilty of an infraction of the organic law, and an act of treason against the state. And the nation proceeded at once to vindicate her own sovereignty and supremacy. There was no coaxing, no buckling, no faltering. Not honied words, but hard blows, promptly administered, and with a terrible energy and rapidity of repetition, were the means employed to sustain the majesty of the government and the authority of the law.

It thus appears that the Hebrew tribes were, in some respects, independent sovereignties, while, in other respects, their individual sovereignty was merged in the broader and higher sovereignty of the commonwealth of Israel. They were independent republics, having each a local government, which was sovereign in the exercise of its reserved rights; yet they all united together and formed one great republic,

\* Judg. xix. 20.

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with a general government, which was sovereign in the highest sense. The constitution of Israel had, in this respect, a similitude to our own, which will strike every reader. It may also be considered as in some measure resembling that of Switzerland, where thirteen cantons, of which each has a government of its own, and exercises the right of war, are nevertheless united into one great state,

under a general government. Thus all the Israelitish tribes formed one body politic. They had one common weal. They held general diets. They were bound to take the field against a common enemy. They had at first general judges, and afterwards general sovereigns. And even when they had no common head, or, as the sacred historian expresses it, when there was neither king nor judge, a tribe guilty of a breach of the fundamental law, might be accused before the other tribes, who, as we have seen, were authorized to carry on war against it as a punishment. It is evident, that the tribes were sometimes without a general chief magistrate. The constitution, as explained above, makes it quite conceivable, that the state might have subsisted and prospered without a common head. Every tribe had always its own chief magistrate; subordinate to whom again, were the chiefs of clans, the judges, and the genealogists; and if there was no general ruler of the whole people, there were twelve lesser commonwealths, whose general convention would deliberate together, and take measures for the common interest. The head might be gone, but the living body remained. Its movements would be apt to be slower and feebler; yet, as the history of the Benjamite rebellion\* teaches us, they did not always want either promptness or energy.†

As the twelve tribes, though independent and sovereign

\* This is said to have happened (Judg. xix. 1), when "there was no king in Israel;" i.e. when the tribes had no common head, no general chief magistrate.

† Mich Com. Art. 46

for local purposes, yet formed but one political body for the care and promotion of the common weal, they would



naturally have general legislative assemblies, who would, as occasion required, meet together and consult for the good of the nation at large. This we find to have been actually the case.\* The law can neither enact, interpret, nor execute itself. For the discharge of these functions there is required a certain number of citizens, organized into one or more bodies, and forming a legislative, judicial, and executive corps. Conringius,† bishop Sherlock,‡ and Lowman§ totally misconceive and misrepresent the Hebrew constitution, when they deny, that it lodged any proper legislative power in the national diet, or states-general of Israel. Their error arises from a misinterpretation of Deut. 4:1,2. "Now, therefore, hearken, O Israel, unto the statutes and unto the judgments which I teach you, for to do them, that ye may live and go on, and possess the land, which the Lord God of your fathers giveth you. Ye shall not add unto the word which I command you, neither shall ye diminish aught from it, that ye may keep the commandments of the Lord your God, which I command you." The same thing is repeated in Deut. 12: 32. "What thing soever I command you, observe to do it; thou shalt not add thereto, nor diminish from it." From these precepts, the learned authors, cited above, erroneously conclude, that no proper legislative authority or power was confided by the constitution to the general assemblies of Israel. There is, undoubtedly, a sense, in which the law was perpetual and unchangeable, viz. in its principles. The principles of a pure and absolute justice remain always the same; and new developments of those principles, made necessary by new circumstances, do not change, even in modifying them, the truth of former developments. It would be absurd in a

\* Exod. xix. 7, 8. Numb. i. 16, xvi. 2, x 2 4, xxvii. 2, xxxvi. 1. Deut. xix. 10.

legislator, in giving a code of laws to a people, to take away from them the power of enacting new laws, as new manners and new conditions of the body politic required them. The command of Moses in this case must be understood as addressed to individuals, and as announcing to them, that they must observe the whole law, without adding to it, or taking from it, on their private authority. When he speaks to the national assemblies, to all Israel, his language is altogether different. Then, on the Contrary, he commands to seek justice, to provide for the public welfare, to pursue (go on in) the way of equity, otherwise called "the way of the Lord," without turning to the right hand or to the left; that is, without departing from the fundamental principles, laid down in the constitution. Thence the Hebrew doctors derive the maxim, assented to by the great Selden, "From the senate [the national diet] proceeds the law to all Israel."\*

The great principle of legislation, which pervades the Hebrew constitution, is, that the general will, the common consent of the citizens, freely and clearly expressed in regularly constituted assemblies, is necessary to give birth to law. This principle Moses seems to have regarded, if not as an essential, at least as an important bond of social order, and a great source of strength to the body politic. Hence at Sinai he obtained the assent of the people, through their elders, to the proposition of Jehovah to be their king and to the laws which he should dictate.†

Again, after numerous laws had been given, and while the Hebrews still remained encamped at the foot of mount Sinai, he called the diet together anew, rehearsed "all, the words of the Lord and all the judgments," and proposed a fresh vote upon them, whereupon the people, by their representatives, signified their unanimous approval, and formally enacted them into laws. Not content with even

\* Mischna, vol. 4, c. 10, and Selden de Synedriis, cited by Salvador, in Hist. des Inst. de Moise, 1. 1, c. 2.

† Exod. xix. 3- 8.

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this expression of the popular will, he caused them all to be written out, engrossed as it were, and the next day, after offering a solemn sacrifice accompanied by various imposing and impressive ceremonies, he read them in the audience of the assembly, and required another formal assent. This last act was strictly of the nature of a compact between Jehovah as sovereign and the Hebrews as subjects; and it is expressly called so by Moses.\* In like manner a short time before his death, when the code had been completed, he assembled the national legislature, and submitted the whole body of laws to their approval, and caused them to renew the compact with their king.† Surely, never did legislator attach a higher importance to the general will, or take more pains to obtain a full, free, and fair expression of it.

This great principle of popular consent, as the basis and nerve of legislation, received fresh confirmation, on various memorable occasions, in the subsequent history of the commonwealth. After the passage of the Jordan, Joshua assembled the states-general of Israel, agreeably to an express injunction of Moses, and caused the nation to renew its vote in favor of the code, which had been framed

for it.‡ Near the end of his life, this same Joshua, a worthy successor of Moses, as having no small share of his ability, and as being deeply penetrated with his spirit, convened the representatives of the nation at Shechem, recounted the leading events of their history, and made them re-elect Jehovah for their king, renew the compact with him, and give their assent once more to the laws, which he had ordained.§ On the return of the Jews from Babylon and the re-establishment of their republic, the law was publicly proclaimed for many successive days, and a solemn formula was drawn up, in which the assent and sanction of the nation might be expressed. To this document twenty-three priests, seventeen Levites, and forty-four chiefs

\* Exod. xxiv. 3- 8

‡ Josh. viii. 30- 35.

† Deut xxix. 9- 13. § Ibid. xxiv.

of the people,—eighty-four leading men in all,—signed their names, and affixed their seals. The rest of the people gave their assent to the covenant and the statutes, in a manner somewhat less formal, but no less binding.\*

These facts are a demonstration, that the principle in question entered essentially into the constitution of Moses, and into the practice of the nation. They put the seal of authenticity upon it. Bossuet himself, a man of vast genius, but whose social relations made him too much the friend of absolute power, and from whom nothing but the force of truth could have drawn such an expression of opinion, recognizes this fact in the following terms: "God, through the agency of Moses, assembles his people, proposes to them the law, which establishes the rights of the nation, both sacred and civil, public and private, and

causes them to give their assent thereto in his presence. The entire people expressly consent to the compact. Moses receives this compact in the name of the people, who had given it their assent."† Again: " All who have spoken accurately concerning the [Hebrew] law, have regarded it, in its origin, as a solemn pact and treaty, by which individual men agree together in reference to what is necessary to form themselves into a civil society."‡

But since Jehovah is the creator of men, and can lay upon them whatever obligations he pleases, since he needs not human assent to strengthen his authority, why should he propose laws, instead of imposing them? Why should he exact the free concurrence of individuals? If his word is truth, expressing both that which is, and that which ought to be, to what end should serve the approval of a multitude? To this I reply as follows: First, God did not give laws to the Hebrews as their creator, but as their deliverer and the founder of their state. Secondly, an important purpose of the Hebrew polity was to teach mankind the real nature of civil govern.

\* Neh. viii. 18; ix. 38; x. 1-29.

† *Politique Sacree*, 1. 1. Art. 4.

‡ *Ibid.*

meet, and the true source of political power; whence it necessarily follows, that the authority of Jehovah, as civil head of the Hebrew state, must be drawn from the same fountain, rest upon the same basis, and be regulated by the same principles, as the authority of a human ruler, standing in the same relation to a civil community. Thirdly, several valuable political advantages, even with Jehovah himself for king, resulted from the assent of the people to

the code. As 1. The law then became not simply a rule, but a rule clothed with the consent of all. It was the expression, not of an absolute power, but of the general will; or rather, to speak more philosophically, it was the expression of political truth, sanctioned by the general will. A rule arbitrarily imposed, however good it may be, tends to despotism; and a thing, wrong in itself and contrary to the eternal principles of justice, though sanctioned by the voice of the whole world, can never be a law to bind the conscience. 2. The consent of the people to the public compact had the effect of obliging each individual towards all the rest. And 3. It had the further effect of binding the moral person called the state, which was formed by this union, to the infinite and unchangeable being; the Hebrews, on their part, promising to shun whatever was hurtful, and to submit to whatever was useful, to the body politic, and Jehovah, on his, engaging to recompense their fidelity with prosperity and happiness.

It has been well remarked by Salvador,\* that no other nation offers the example of a compact so wise and so sublime. He adds the opinion, which is worthy of being pondered, that it is the essential cause of the strong power of cohesion, developed by the political association of the Hebrews, inspiring prophets, full of genius, with the thought, that, as long as the laws of nature shall endure, Israel and his law shall never pass away. Such, then, is the principle

\* Hist. des Inst. de Moise, l. 1. C. 2. The whole of the chapter on the formation of the law is well worthy of the reader's attention

of the Hebrew legislation, viz. that law must rest upon the foundation of the general will, the consent of the nation

freely and clearly expressed.

The legislative assemblies, created by the constitution of Moses, were of two kinds,—an upper and a lower house. The former was a select assembly, called commonly the princes, elders, or senators of Israel; and was convened by the sound of a single trumpet. The latter was a larger and more popular assembly, called the congregation of Israel; and the signal for calling it together was the blowing of two trumpets.\* These were the signals while Israel was an army, and abode in the wilderness; but after the nation was settled in Canaan, either they met at stated times, or heralds must have been employed to convey the summons for assembling to the persons having a seat in the diet. "These general assemblies were convened by the chief magistrate of the commonwealth, by the commander of the army, or by the regent; and, when the nation had no such supreme head, by the high priest, in his capacity of prime minister to the invisible king. The great assembly mentioned in the twentieth chapter of Judges, was undoubtedly convoked by the high priest Phinehas, who was so zealous for the honor of Jehovah.† It was to these assemblies, that Moses immediately addressed himself, and to them he delivered the precepts, which he received from Jehovah. The magistrates, particularly the genealogists, then communicated to the people the precepts and orders of Moses, each one to the families under his immediate direction. In like manner, the commands of the generals and the resolves of the assemblies were made known to the people, who were sometimes assembled ready to receive these communications; or if not, were called together by the proper officers. The legislative assemblies exercised all the rights of sovereignty.

\*Numb. x. 2- 4.

† Numb. x. 2-4. Josh. xxiii 2. xxiv. 1. 1 Sam. xi. 14. Judg. x. 27

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They declared war, made peace, formed alliances, chose generals, chief judges or regents, and kings. They prescribed to the rulers whom they elected the principles by which they were to govern. They tendered to them the oath of office, and rendered them homage."\*

I forbear for the present all investigation of the vexed question as to who were entitled to seats in the national legislature, reserving such inquiries, till I come to treat, in detail, of the different branches, which composed it.

I have already spoken of the inferior courts among the Hebrews, by which the local administration of justice was conducted. But the judiciary system could not be complete, without a supreme judicature, which, accordingly, we find to have been established by the constitution. The provision for this court is in the following words: "If there arise a matter too hard for thee in judgment, between blood and blood, between plea and plea, and between stroke and stroke, being matters of controversy within thy gates (i.e. in the inferior. local courts); then thou shalt arise, and get thee unto the place which the Lord thy God shall choose; and thou shalt come unto the priests the Levites, and unto the judge that shall be in those days, and inquire; and they shall show thee the sentence of judgment."† The priests the Levites and the judge here evidently mean a national council or court. The phrase cannot be understood of the whole tribe of Levi, but must be interpreted of such priests and Levites only, as had some commission to give judgment in the place, which Jehovah



should choose. They were not priests and Levites in general, but chosen members of a national tribunal. It was not, indeed, made necessary by any provision of the constitution or any direction of law, that the priests or Levites

\* Jahn's Heb. Com. B. 2. S. 14. Exod. xix. 7, xxiv. 3- 8, xxxiv. 31. xxxv. 1. Josh. ix. 15- 21. Judg. xx. 1- 13, 18, 28. xxi. 13 seqq. 1 Sam. x. 24. xi. 14,15. 2 Sam. iii. 17- 21. v. 1- 3. 1 Kings xii.

† Deut. xvii 8, 9.

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should be in this tribunal at all; yet, on account of their learning and knowledge of the laws, they would naturally be esteemed best qualified to be chosen to interpret them. This supreme judicature, composed of persons of the greatest ability, experience, and learning in the laws, was not only highly important and useful, as a court of appeal in adjudicating difficult cases, and those in which great interests were at stake between individuals; but it was absolutely indispensable for the decision of controversies, which might arise between different tribes. As no one tribe had any authority or jurisdiction over any other, such controversies could be decided only by some common judge. The tribes, as sovereign states, were subject to no lower court, than the supreme judicial council of the whole nation. What concerned one tribe was by no means to be determined by the judges of another.\* It is hardly necessary to add, that the judgment of this court was final. Hence it was enacted: " Thou shalt do according to the sentence, which they of that place which the Lord shall choose (the supreme court) shall show thee; and thou shalt observe to do all according to all that they inform thee; according to the sentence of the law which they shall teach thee, and according to the judgment which they shall tell thee, thou shalt do; thou shalt not decline from the sen-

tence which they shalt show thee, to the right hand nor to the left."†

>From this general view of the Hebrew constitution, a brief reference to the tribe of Levi can by no means be omitted. This was the learned class, a kind of literary aristocracy. The members of this tribe were devoted to the tabernacle and the altar, that is, politically speaking, to be the ministers and courtiers of the king Jehovah. They performed, not only the rites of religion, but also the duties of all those offices of state, for which learning was necessary. They

\* Lowm. Civ. Gov. Heb. c. 5. Selden de Synedr. 1. 3 c. 4

† Deut. xvii. 10, 11.

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were by birth devoted to the cultivation of the sciences, especially the science of government and jurisprudence. They were to study the book of the law; to make, preserve, and disseminate correct copies of it; to instruct the people both in human and divine learning; to test the accuracy of weights and measures; to exhort the soldiers, and inspire them with courage, when about to engage in battle; to perform the duty of police physicians; to determine and announce the moveable feasts, new moons and intercalary years; to discharge the functions of judges and genealogists; with a variety of other duties. \* Consequently they were to be theologians, jurists, lawyers, historiographers, mathematicians, astronomers, surveyors, teachers, orators, and medical practitioners. "What fruits might not such a plant have borne, if the priests and Levites had faithfully accomplished the purposes of their appointment!"†

The prophetic, not less than the Levitical order, among the Hebrews, had very important relations to the civil state. The prophets were the popular orators of the Israelitish commonwealth. They were not, as has been, with different views and for different ends, alleged by the church of Rome and the school of Voltaire, an appendage of the priesthood. On the contrary, they were quite independent of the sacerdotal order, and of the royal power as well.‡ In the public assemblies on the sabbath, the new moon, and in the solemn convocations, the prophets, observes Calmet,§ harangued the people, and freely reprov'd the disorders and abuses, which showed themselves in the nation. They were true patriots, who spoke the truth, without disguise and without fear, to

\* Numb. xviii. 2- 1. Lev. xxv. 8, 9. Deut. xvii. 9. xx. 2- 4. xxxi. 11- 13. Lev. xiii. 14. 1 Chron. xxiii. 4. 2 Chron. xvii. 7- 9. xix. 8. xxxiv. 13. MaL ii. 7.

† Jahn's Heb. Com B. 2. S. 12.

‡ Eichhorn cited by Salvador, 1. 2, e. 3.

¶ Dissert. eur lea Ecoles des Hebreux, S. 11.

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people, priests, senators, princes, and kings. We have an instance of this in the indignant rebuke of Isaiah, chap. 1:21- 94: "How has she become an harlot, (faithless to her compact with Jehovah,) the faithful city, full of justice, righteousness lodged in it, and now murderers. Thy silver is become dross, thy wine weakened with water. Thy rulers are rebels, and fellows of thieves, every one of them loving a bribe and pursuing rewards. The fatherless they judge not, and the cause of the widow cometh not unto them. Therefore, saith the Lord, Jehovah of hosts, the mighty one of Israel, I will comfort myself of my adver-

saries (literally, from them, i.e. by ridding myself of them) and I will avenge myself of my enemies."\*

Thus it appears, from all which has gone before, that the nature of the public functions, prescribed in the Hebrew constitution, flow from the nature of things. The first want of a state, as of every organized, living being, is self-preservation. To meet this want, the constitution institutes certain functionaries, not only to strengthen the union of the tribes, but also to preserve, in its integrity, both the letter and the spirit of the fundamental law, and to teach it incessantly to the people. Such are the Hebrew priests and Levites. Next, the body politic wants a supreme Legislative council, to watch over its wants, to direct its general movements, to shape its policy, and to modify old laws and enact new ones, as the exigency of times and occasions demands. For this the constitution provides in the assemblies composing the states-general of Israel. The third fundamental necessity of a nation is that of having the civil relations of the citizens maintained agreeably to the rules laid down in the law. The constitution satisfies this requirement by a judiciary system, which brings the administration of justice to every man's door, and makes it at once cheap and speedy, taking care, however, to prevent the evils of crude, hasty, and interested

\* Alexander's Translation, Earlier Prophecies, pp. 16, 17.

decisions, by a system of appeal through courts of various grades, up to the supreme judicature, which holds its sessions in the capital of the republic. Again, the state requires, that its force be wisely and effectively directed

against its public enemies. This care the constitution devolves upon the chief magistrate of Israel. Finally, it is necessary to the best welfare of a state, that men of lofty genius, men endowed with sagacity to discover the connexion between an existing evil and antecedent acts of folly or injustice, men inspired with great ideas, political or moral, should be able freely to utter their thoughts, and boldly to censure both magistrates and people. This necessity the Hebrew constitution meets by its institution of the prophetic order; an institution, which, in those remote ages, admirably supplied the want of a free press, and must have contributed, powerfully and effectively, to the formation of a public opinion, wise, just, pure, and dignified.

Before concluding this chapter, let us glance at the government of the individual tribes and cities.

Each tribe was a reproduction, a miniature copy, as it were, of the nation. It would naturally happen, that the government and functionaries of the former would correspond, in all important respects, to the latter. Nor have we any reason to doubt, that such was the case. This at least is the general opinion of the learned. As all Israel had a council of elders and a representative congregation of the people, so each tribe had its senate of princes and its popular assembly. All the tribes together formed a sort of federative republic, in which nothing could be done or resolved without the general consent of their respective representatives, and in which each individual tribe had a constitution formed upon the model of the national constitution.

As the general government was the type of the provincial governments, so these furnished the model of the city administrations. Every city had its bench of elders, distinct

from its judges and genealogists.\* Thus the cities, like the nation and the tribes, had an upper and a lower house, a board of aldermen and a board of assistant aldermen. These municipal assemblies managed the public business of the cities, as the assemblies of the tribes administered the general affairs of the tribes, and the assemblies of the commonwealth those of all Israel. Numerous proofs of this constitution of the city governments occur in the sacred books. That every city, with its surrounding district, was to have a board of judges and genealogists, we have already seen.† That a board of elders was superadded to this as a part of the municipal administration, the evidence is equally clear. The men of Succoth having offended Gideon, when pursuing the routed Midianites, on his return from the battle he caught a young man of the place, and compelled him to give to him in writing a list of the princes and elders of his city.‡ In the law concerning the expiation of an uncertain murder, the two boards are mentioned in connexion, and yet plainly distinguished from each other; for it is said, "Thy elders and thy judges shall come forth."§ In like manner, when, on the return of the Jews from Babylon, the matter concerning the unlawful marriages was in hand, "the elders of every city and the judges thereof" are related to have appeared, with the transgressors, before "the rulers of all the congregation."|| The author of the book of Judith speaks of a council of ancients in Bethulia, and of three mayors, or governors, to whom the executive function was committed. He also mentions one of the governors, Ozias, as having made a feast to the elders.¶

To these municipal assemblies it belonged to direct the public affairs of the cities by their council and authority,

and

\* Deut. xxi. 1 seqq. Judg. xi. 5, 6, 11. viii. 6, 14. Ruth iv. 4, 9. Ezra x. 14, and many other scriptures.

† Deut. xvi. 18

‡ Judg. viii. 6, 14.

§ Deut. xxi. 2.

|| Ezra x. 14.

¶ Judith vi. 14- 21.

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to interpret the law in whatever related to the interests of their respective cantons. Salvador\* thinks, that like the censors at Rome and the ancients of Sparta and Athens, they watched over the public manners and morals. Seated without parade at the city gate, or beneath the shade of trees, they lent the ear, he says, to the aggrieved citizens, to the weeping wife, to the oppressed slave, to the poor, the stranger, the orphan, and the widow. If their complaints admitted of legal redress, they proclaimed and enforced the law; if not, they became the counsellors and comforters of the afflicted. By their efforts, a rigorous father was softened; a wandering son was reclaimed and brought back to the paternal mansion; and families, rent by discord, were re-united in peace. On the sacred days, the presence of the rulers, reverently listening to the reading of the law and the exhortations of the orators, impressed upon the youthful citizens the importance of the subjects handled, and communicated to the assemblies a calm, thoughtful, and dignified air.

Thus flowed the current of affairs, during those long periods of repose enjoyed by Israel, despite the powerful enemies by which the nation was surrounded. Such was the simple but energetic polity, which impressed upon the soul of the Hebrews memories never to be effaced, and which, in spite of many odious actions, produced by the

barbarism of the times, imparts a charm to their sacred books, unknown to other compositions; a charm, which neither distance of time nor diversity of manners has power to dissolve, or even to weaken.

\* Hist. des Inst. de Moise 1. 2.c.

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## CHAPTER IV.

The Hebrew Chief Magistrate.

Moses did not, by an express law, unalterably determine in what sort of magistrate the supreme executive authority of the Israelitish state should be lodged. On the contrary, he provided beforehand, in his constitution, for a change in the form of the government and the title and prerogatives of its head, without subjecting the nation to the horrors of a civil war. And the change from the republican to the regal form was, in a subsequent age, actually accomplished without bloodshed or commotion, an event hardly paralleled by any other in history. Still, Moses was far from being indifferent in regard to the name and powers of the civil head of the state. His chief magistrate was a republican president, who had the title of judge, or rather,



as Jahn says, governor, and was elective by the people.

A strange notion in regard to the chief magistracy of Israel has been entertained by several very learned authors; viz. that it was the design of Moses, that the nation should, if possible, do without a chief executive officer. Such appears to have been the opinion of Harrington,\* Fleury,† Lewis,‡

\* Commonwealth of Israel, C. 3.

† Manners of the Ancient Israelites, C. 28.

‡ Antiquities of the Heb. Rep. B. 1, C. 4.

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Michaelis,\* Smith,† and Dupin.‡ Their idea would seem: to have been, that, considering how difficult it is to control power once entrusted to the hands of an individual, the lawgiver of Israel wished to have the ends of an executive answered in his republic, without setting apart a single person for that tempting distinction, trusting that, on emergencies, men would appear, who could discharge the duty required by the occasion, without any other commission, than their own preeminent qualifications, instinctively acknowledged by the public voice. In the view of these writers, the judges were all extraordinary magistrates, not unlike the dictators in ancient Rome.

I have called this a strange opinion, because a state without a chief magistrate, is as monstrous as a body without a head. But I must add, that, notwithstanding the great names, by which it is supported, it appears to me wholly without foundation. If I look either to the conduct or the laws of Moses, I can discover no ground for such an idea. Let us first take his acts for our guide in the study of

this point. Moses himself was, unquestionably, the chief magistrate of the Hebrew state. Now, when he had finished his course, and the time of his departure was at hand, about to yield up the authority, which he had so long and usefully exercised, he was mainly anxious to provide a suitable successor in that office; a man of courage, prudence, piety, and other needful gifts of government. § He was to be one, who should go out and come in before them; that is, he was to have the command of their armies in war, and the direction of their civil affairs in peace. As to the opinion, that this was to be an extraordinary magistracy, it is pure assumption. No intimation is given, that it was to last only during the conquest and settlement of Canaan. The reason assigned by Moses for his anxiety in the matter, viz. that the congregation of Jehovah be not as

\* Comment. on the Laws of Moses, Art. 53.

† Hebrew People, C. 3.

‡ Hist. of the Canon. B. 1. C. 3.

§ Numb. xxvii. 15- 17.

sheep that have no shepherd, seems to me to settle the question beyond doubt or cavil. Sheep without a shepherd would be as appropriate a symbol of Israel without a chief magistrate after the settlement of Canaan, as before it. This reason for the office of leader or head, viz. its great usefulness or importance to the well-being of the body politic, which are inherent and permanent qualities, stamps it as an essential and standing part of the constitution. And this is conformable to the general sentiment and practice of mankind. The wisest nations have ever deemed it convenient to have a first magistrate, either hereditary or elective, either for life or a term of years, who should be the commander in chief of their armies, and who should preside over the civil administration. No otherwise can the

force of a nation be properly employed for its protection, and its laws duly executed.

But, again, if we look at the laws of Moses, we shall come to the same conclusion, viz. that the opinion I am combatting IS without any solid foundation. Michaelis\* says truly, that Moses gave no law, imposing an obligation on the people to choose one universal magistrate of the whole nation. Yet he at least does that which is equivalent; he manifestly takes it for granted, that the nation would have such a magistrate. Thus in Deut. 17:9, the judge of the whole republic is mentioned in connexion with the high priest; and that, not as a military, but as a civil functionary. In the twelfth verse of the same chapter, the word judge is used as a title of supreme authority. A still more decisive passage occurs in 2 Sam. 7:11. It is an address, which Jehovah, by the mouth of the prophet Nathan, made to king David, concerning his intention to build him a house. The divine speaker, in a distinct allusion to the chief magistrates of Israel, prior to the institution of monarchy, says expressly: "I COMMANDED judges to be over my people Israel." Upon the whole, there can be no reasonable doubt, that, as the Lacedaemonians had their

\* Art. 53.

kings, the Athenians their archons, and the Romans their consuls, so, according to the constitution of Moses, the Hebrews were to have their general judges, or governors of the whole republic. As to what is alleged by some, as a ground of belief that Moses did not intend to have an unbroken succession of chief magistrates, that, prior to the establishment of monarchy, there were times, when the nation was without a civil head, and that the authority of

some of the judges did not extend to all Israel, but was limited to particular tribes, that is undoubtedly true. But it is a fact, which may be accounted for on more rational grounds, than the theory of these writers. It was the result of a neglect, rather than an observance, of the Mosaic constitution; a neglect, in all probability occasioned by the jealous rivalry between the different tribes, as explained in the last chapter.

In order to, a just understanding of the frame and operation of the Hebrew government, it is material to inquire, both what were the powers, and what the limitations of power, appertaining to this magistracy. If we would conceive justly of the office, we must study it, as it was instituted and exercised by Moses and Joshua, in whose history alone we may expect to find an exact and true account of it, since, after the death of the latter, this part of the constitution was very soon altered or neglected, there being no regent or judge in the land.\*

The supreme authority of the Hebrew state was in Jehovah. God himself was properly king of Israel. With respect to this divine king, Moses, as Conringius† says, might not improperly be called his viceroy. It is evident from the whole history, and therefore particular citations are not necessary to prove, that Moses was clothed with very ample powers. He had authority to convene the states-general of Israel, to preside over their deliberations, to command the army, to appoint officers, and to hear and decide civil causes.

\* Judg. xix. 1.

†De Rep. Haebr. p. 249, cited by Lowman, C. 10.

But it may be alleged, and it is certainly true, that Moses had an authority depending, in a peculiar manner, on God himself. Let us, therefore, look at this office of chief magistrate, as exercised by Joshua. We find a somewhat detailed account of it, in the narrative of his appointment as the successor of Moses. The historian says:\* "And the Lord said unto Moses, Take thee Joshua the son of Nun, a man in whom is the spirit, and lay shine hand upon him: and set him before Eleazar the priest, and before all the congregation: and give him a charge in their sight. And thou shalt put some of shine honor upon him, that all the congregation of the children of Israel may be obedient. And he shall stand before Eleazar the priest, who shall ask counsel for him after the judgment of urim before the Lord: at his word shall they go out, and at his word they shall come in, both he, and all the children of Israel with him, even all the congregation. And Moses did as the Lord commanded him: and he took Joshua, and set him before Eleazar the priest, and before all the congregation. And he laid his hands upon him, and gave him a charge, as the Lord commanded by the hand of Moses." We learn, still more clearly, the nature of this part of the Hebrew constitution, from the history of Joshua's accession to the government. "Now, after the death of Moses, the servant of the Lord, it came to pass, that the Lord spake unto Joshua, the son of Nun, Moses's minister."† The object of this address was to encourage him to take upon himself the government of the Israelites.‡ Thereupon the new regent immediately issues his orders:§ "Then Joshua commanded the officers of the people, saying, Pass through the host and command the people, saying, Prepare you victuals: for within three days ye shall pass over this Jordan, to go in to possess the land which the Lord your God giveth you to possess it." Then he summoned the tribes, who had

received their inherit

\* Numb. xxvii. 18- 23. †Josh i. 1. ‡Ibid. i. 2- 9. §Ibid. i. 10, 11.

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ance east of the Jordan, and directed them to accompany their brethren, and assist them in taking possession of their portion on the western side of that river.\* Their reply was remarkable, and deserves to be inserted at length; as we distinctly see from it their conception of the nature and extent of the authority, which was vested in Joshua:—† "And they answered Joshua, saying, All that thou commandest us, we will do, and whithersoever thou sendest us, we will go. According as we hearkened unto Moses in all things, so will we hearken unto thee: only the Lord thy God be with thee, as he was with Moses. Whosoever he be that cloth rebel against thy commandment, and will not hearken unto thy words in all that thou commandest him, he shall be put to death: only be strong and of a good courage."

These are the principal passages, relating to the office of chief magistrate among the Hebrews, as it was exemplified in the history of the first two judges. A critical analysis of them establishes several important conclusions.

1. The Hebrew judges held their office for life. There was unquestionably, a disadvantage attendant upon this arrange meet. On the death of a judge, the supreme executive authority ceased. This often led to anarchy, or at least to great disorders, in consequence of a delay in electing a successor. In virtue of the English maxim of law, that the king never dies, all the rights of the sovereign, on his demise, instantly vest in his heir. Perhaps, however, the disadvantage, resulting from the adoption of the opposite

principle in the Hebrew polity, was more than counterbalanced, by its preventing a degenerate heir, or successor, from giving to idolatry the support of his influence"‡

2. The office was not hereditary. Moses took no steps to perpetuate this magistracy in his family, or to leave it as an hereditary honor to his posterity. He did not even seek to confine it within his own tribe. All he desired, in his successor

\* Josh. i. 12- 15.

† Ibid. i. 16- 18.

‡ Jahn's Heb. Com. B. 3. .

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cessor, was a man fit for the office; a man, in whom was the spirit of prudence, courage, and the fear of God, with all the other gifts of government, necessary in an upright, patriotic, zealous, and able chief magistrate. Joshua, the immediate successor of Moses, was of the tribe of Ephraim; Othniel was of Judah; Ehud, of Benjamin; Deborah, of Naphtali; Gideon, of Manasseh; and Samuel, of Levi. The other judges were of several different tribes; and, they being dead, their children remained among the common people; and we hear no more of them. "Let the supreme authority be given to the worthiest," is the voice of reason. "Let the supreme authority be given to the worthiest," is echoed back by the Mosaic constitution, as face answers to face in water, and the heart of man to man.

3. The chief magistracy of Israel was elective. The oracle, the high priest, and all the congregation, are distinctly recorded to have concurred in the elevation of Joshua to this office.\* Jephthah was chosen to the chief magistracy by the popular voice.† Samuel was elected regent in a general assembly of Israel.‡ And, for aught that appears, the other judges were raised to this office by the free, unsolicited choice of the people.

4. The authority of these regents extended to affairs of war and peace. They were commanders in chief of the military forces of the Israelites, and chief judges in civil causes. That Moses united these functions in his person, is undisputed. He administered justice, as well as commanded armies. That Joshua did the same, that his authority was, in these particulars, of an equal extent, is also clear. Moses was directed to put some of his honor upon him, that all the congregation of the children of Israel might be obedient. § What does this mean, but that, as suggested by bishop Patrick, Moses communicated to Joshua some of his own authority,

\* Numb. xxviii. 19. 22.

† Judg. xi. 4- 11.

‡ 1 Sam. vii. 5- 8.

§ Numb. xxviii. 20.

and made him an associate in the government? But the point is yet clearer from the words, in which the trans-jordanic tribes recognized Joshua's authority: "All that thou commandest us we will do, and whithersoever thou sendest us we will go. According as we hearkened unto Moses in all things, so will we hearken unto thee."\* This is explicit and unequivocal. The authority of Joshua was coextensive with that of Moses, and comprehended civil as well as military affairs. Most of the succeeding judges had been at the head of armies; had delivered their country from foreign oppression; and were elevated to the chief magistracy in reward of their military exploits. Eli and Samuel, however, certainly were not military men. Deborah was judge, and held her court under a palm tree, before she planned the war against Jabin. † Of Jair, Ibzan, Elon, and Abdon, it is uncertain whether they ever held any mil-



itary command. The judges are mentioned in the Mosaic law, in connection with the high priest, as arbiters of civil controversies.‡ The command of the army cannot, therefore, be considered as the peculiar, much less the exclusive function of these magistrates. They appear rather to have been appointed for the general administration of public affairs. It is true, that martial achievements were, in several instances, the means, by which men raised themselves to the rank of judges; but the present inquiry is, not how the office was obtained, but for what ends it was instituted.§

The authority of the judge was, without doubt, very great. As general, he had the chief command of the army; as civil head of the state, he convened the senate and congregation, presided in those assemblies, proposed the public business, exercised a powerful influence over their deliberations, and, in all things, acted as viceroy of Jehovah, the invisible king of Israel. He was the fountain of justice, and the executive

\* Josh. i. 16,17.

†Judg. iv. 4, 5

‡Deut. xvii. 9, 12.

§ Jahn's Heb. Com. B. 3, S. 22

power of the government was principally lodged in his hands.\*

5. A contumacious resistance of the lawful authority and orders of the Hebrew judges, was treason. This is plain from the address of the eastern tribes to Joshua, in formally recognizing him as the head of the nation, and promising allegiance to his government. "Whosoever he be," they say, " that doth rebel against thy commandment, and will not hearken unto thy words, in all that thou com-

mandest him, he shall be put to death."† It is, perhaps, still plainer from Deut. 17: 12: "The man that will do presumptuously, and will not hearken unto \* \* \* \* the judge, even that men shall die." And this was consonant to reason and justice; for, the chief authority, both in military and civil affairs, being vested in him, he embodied and represented the majesty of the state. Rebellion against him was rebellion against the supreme power. It was a violation of all order and government, an attempt to frustrate the will of the nation, an act of mutiny and sedition; offences, which, in all governments, have been regarded and treated as capital crimes.

6. The authority of the Israelitish regents was not unlimited and despotic. It was tempered and restrained by the oracle. This is distinctly affirmed, in the history of the appointment of Joshua to the chief magistracy, as the successor of Moses.‡ It is there said, that he should stand before Eleazar the priest, who should ask counsel for him, after the judgment of urim before the Lord. This implies an obligation to follow the counsel, when given. This use of the oracle throws light on some parts of the Hebrew history, which are commonly not well understood. In particular, it suggests the reason why the Israelites were so often conquered and oppressed by their enemies. It was either because of their rashness in trusting to their own wisdom, without asking

\* Lowm. on Civ Gov. Heb. C. 10.

† Josh. i. 18.

‡ Numb. xxvii. 21.

counsel of the oracle, or because of their neglect to follow the counsels, which they received from it. In either case,

the behavior of the Hebrews could not be otherwise than highly criminal, under this constitution; and, of course, highly provoking to their divine king. The power of the Hebrew chief magistrates was further limited by that of the senate and congregation. In ordinary cases, it would seem, they were not bound to consult the states-general. It was enough, if these did not remonstrate against the measures of the judge; a procedure to which they were by no means backward in resorting, whenever, in their judgment, occasion required it. But, in important emergencies, they summoned a general assembly of the rulers, to ask their advice and consent. This we find to have been repeatedly done by Moses, Joshua, and Samuel.

Still another limitation to the authority of the Hebrew judges was in the law itself. Their power could not be stretched beyond its legal bounds. This is pretty plainly intimated, in the address of the people to Joshua, on his accession to the chief magistracy. They say, in effect, that they would be obedient to him, provided he himself would obey the law of Jehovah, and follow the path traced out by his servant Moses.\* This magistracy was always in subjection to the law, nor, as far as appears from the history, did any of the judges ever abuse the power committed to them, unless we except Gideon, who, through his own superstition, gave some slight encouragement to idolatry. As it is a maxim of the British monarchy, that the law maketh the king,† so it was a principle of the Hebrew commonwealth, that the law made the judge; and as, under the English constitution, he is not king, where will and pleasure rule, and not the law;‡ so, under the Israelitish constitution, he would not long have continued judge, who, trampling on the law, should have made his own will the rule of his administration.

The observation may appear singular, yet I believe it to be true, that the constitution of Carthage throws light on this part of the constitution of Israel. "The history of the Carthaginians," observes Michaelis,\* "will here assist us in forming more accurate ideas of this chief magistrate of the Israelitish republic, and in comparing his office with a well known European one. In the Hebrew language, a judge is called *schofet*. The Carthaginians, who were descendants of the Tyrians, and spoke Hebrew, called their chief magistrate by that name. But the Latins, who had no such *sch*, as we have, wrote the word with a sharp *s*, and, adding, a Latin termination, denominated them *suffetes*. By the historian Livy, they are compared to the Roman consuls. In book 28, chap. 38, he says, 'Ad colloquium *suffetes eorum, qui summus Poenis est magistratus, cum quaestore elicit.*' There, however, he is speaking, not of the *suffetes* of the city of Carthage itself; but of inferior ones. But in book 30, chap. 7, he mentions the former in these words: '*Senatum suffetes, quod velut consulare apud imperium erat, vocaverunt.*' Now such were the judges of Israel, whose history is recorded in the book called by their name."

No salary was attached to the chief magistracy in the Hebrew government. No revenues were appropriated to the judges, except, perhaps, a larger share of the spoils taken in war, and the presents, spontaneously made to them, as testimonials of respect.† No tribute was raised for them. They had no outward badges of dignity. They did not wear the diadem. They were not surrounded by a crowd of satellites. They were not invested with the sov-

ereign power.‡ They could issue orders; but they could not enact laws. They had not the right of appointing officers, except perhaps in the army. They had no power to lay new burdens upon the people in the form of taxes. They were ministers of justice,

\* Comment Art. 53.

† Judg. viii. 24. 1 Sam. ix. 7. x. 27.

‡ Pastoret, Histoire de la Legislat. t. 3. pp. 79 seqq.

protectors of law, defenders of religion, and avengers of crime; particularly the crime of idolatry.\* But their power was constitutional, not arbitrary. It was kept within due bounds by the barriers of law, the decisions of the oracle, and the advice and consent of the senate and commons of Israel. They were without show, without pomp, without retinue, without equipage; plain republican magistrates. "They were not only simple in their manners, moderate in their desires, and free from avarice and ambition, but noble and magnanimous men, who felt that whatever they did for their country, was above all reward, and could not be recompensed; who desired merely to promote the public good; and who chose rather to deserve well of their country, than to be enriched by its wealth. This exalted patriotism, like every thing else connected with politics in the theocratical state of the Hebrews, was partly of a religious character; and those regents always conducted themselves as the officers of God. In all their enterprises, they relied upon him, and their only care was, that their countrymen should acknowledge the authority of Jehovah, their invisible king. Still, they were not without faults; neither are they so represented by their historians. These relate, on the contrary, with the utmost frankness, the great

sins, of which some of them were guilty. They were not merely deliverers of the state from a foreign yoke, but destroyers of idolatry, foes of pagan vices, promoters of the knowledge of God, of religion, and of morality; restorers of theocracy in the minds of the Hebrews; and powerful instruments of divine providence in the promotion of the great design of preserving the Hebrew constitution, and, by that means, of rescuing the true religion from destruction."<sup>†</sup>

Such was the chief magistrate of Israel, as created by the constitution of Moses. It will be interesting and not unimportant, to inquire into the state of the country, during the

\* Calmet's Dict. Art. Judge

† Jahn's Heb. Com. B. 3. S. 22.

government of the judges. Very grave errors on this point, and such as are calculated to discredit the wisdom of this constitution, have been committed by authors, otherwise candid and learned. It has been by no means uncommon to represent the four hundred and fifty years, during which this consular Magistracy lasted, as times of imbecility, confusion, anarchy, barbarism, and crime. Harrington\* speaks of the Israelitish commonwealth, during this period, as "without any sufficient root for the possible support of it, or with such roots only as were full of worms". Lowman<sup>†</sup> speaks of "the weak state of the Hebrews," and Smith,<sup>‡</sup> of "the moral and social deterioration of the people," during the same period. Nothing can be more unfounded, or unjust, than such representations. This error is probably grounded on another, viz. that of regarding the book of Judges as a complete history of the

times of the judges. But such it manifestly is not. The book is exceedingly fragmentary as a narrative, being made up rather of heads of history, than history itself: It is aptly characterised by Jahn as "a mere register of diseases, from which, however, we have no right to conclude, that there were no healthy men, much less that there were no healthy seasons; when the book itself; for the most part, mentions only a few tribes, in which the epidemic prevailed, and notices long periods, during, which it had universally ceased." If anyone will attentively read over the book of Judges, and take the trouble to compare the times of oppression and adversity with those of independence and prosperity, he will find the duration of the former less than one-fourth that of the latter. The entire history of one hundred and twenty years of this period is contained in these two brief records: — "The land had rest forty years;"|| "the land had rest four score years."¶ Surely, Othniel,

\* Commonwealth of Israel, c. 3.

† Civ. Gov. Heb. c. 10.

‡ Heb. Peop. c. 3.

§ Heb. Com. B. 3. S. 23.

|| Judges iii. 11.

¶ Ibid. iii. 30

Ehud, and Shamgar must have governed with prudence and ability, since all the time of their administration was prosperous and peaceable, both within and without. It is quite apparent, therefore, that the Israelites experienced much more of prosperity than of adversity in the time of the judges. Under their government, the nation enjoyed periods of repose, happiness, and plenty, of which the history of other ancient nations affords but few examples.

Wherefore, then, change the republican to the regal form? Pride and folly prompted the revolution; a revolution, soon repented of with bitter but unavailing regrets; a revolution, in which lay buried the seeds of despotism and ultimate dissolution.

This magistracy of judge, regent, or consul, was the true primitive arrangement of the Hebrew constitution. This the wisdom of the divine lawgiver appointed as one of the bonds, whereby the tribes were to be united in the power of their arms, in their national councils, and in the administration of justice. If Moses, in framing his polity, had stopped here, it would have been necessary for any one, in analyzing and describing it to arrest himself at the same point. But since he provided for the establishment of the regal form of government among the Hebrews, whenever they should tire of republican simplicity, and since he enacted a fundamental law to define and limit the power of the future kings, the study of the Hebrew chief magistracy involves an examination of the regal office; nor would the analysis of the Mosaic constitution be complete without it. To this labor, therefore, I now address myself.

The law, referred to in the last paragraph, is in these words:—

" When thou art come into the land, which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a king over me, like as all the nations that are about me: Thou shalt in any wise set him king over thee whom the Lord thy God shall choose: one from among thy brethren shalt thou set king over thee:

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thou mayest not set a stranger over thee, which is not thy brother. But he shall not multiply horses to himself, nor cause the people to return to Egypt, to the end that he should multiply horses: forasmuch as the Lord hath said



unto you, Ye shall henceforth return no more that way. Neither shall he multiply wives to himself; that his heart turn not away: neither shall he greatly multiply to himself silver and gold. And it shall be when he sitteth upon the throne of his kingdom, that he shall write him a copy of this law in a book out of that which is before the priests the Levites. And it shall be with him, and he shall read therein all the days of his life: that he may learn to fear the Lord his God, to keep all the words of this Law and these statutes, to do them: that his heart be not lifted up above his brethren, and that he turn not aside from the commandment to the right hand or to the left: to the end that he may prolong his days in his kingdom, he, and his children, in the midst of Israel."\*

Agreeably to the provisions of this enactment, the nation was at liberty, whenever it thought fit, to institute the regal form of government; the king was to be chosen by the concurrent voice of the people and the oracle; the sovereign must be a native Israelite; the multiplication of horses was interdicted to him; he was not to have many wives; he might not accumulate and hoard large treasures; he was to be the defender of religion; the law must be the rule of his government; he must regard his people as brethren and equals; and, upon these conditions, the throne was to be hereditary in his family. I propose briefly to illustrate each of these particulars.

1. Monarchy was permitted to the Israelites. Moses was not ignorant of the temper of the orientals. He knew their strong propensity to kingly government, which, at a later period in the world's history, was remarked by the Greeks and Romans. He well understood, also, the general mutability of human affairs. On these grounds, he anticipated, and the law under consideration presupposes, what afterwards took place, a desire in the Hebrew people to have a

king, in

\* Deut. xvii. 14- 20.

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imitation of the polity of other eastern nations. For the gratification of this desire in a peaceful way, Moses provided in this law. Among the immediate causes of this change in the Hebrew constitution, we may probably, without error, enumerate the effeminacy and cowardice of the people, the disunion and jealousy of the tribes, the formidable power of the Ammonites and the Philistines, from whose incursions the eastern and southern tribes were constant sufferers, the fear that, after the death of Samuel, being left without a supreme regent, and consequently becoming: disunited, they would fall a prey to these terrible enemies, the degeneracy of Samuel's sons, the example of all their neighbors, the idea of the greater respectability of a nation with a king at its head, the desire or the necessity of being always ready for war, a want of faith and constancy in the Hebrew mind, and, more than all perhaps, a weak longing after the pomp and glitter of royalty. But, whatever the cause might be, the change was made. It conduces not a little to the honor of the Hebrews, that they effected it in accordance with the principles of theocracy, and without bloodshed. This is a clear proof, that the time of the judges was neither an impious nor a barbarous age.\*

2. The right of election was left to the people; subject to this limitation, however, that they were not to appoint any one as king, who was not chosen by God. At first view, the two parts of this proposition appear contradictory to each other. But the difficulty vanishes, when it is understood as simply implying, that the oracle and the states-general must concur in the choice. In some of our state legisla-

tures, United States senators are elected by a separate vote of each house, in which case the two houses must be of accord, or there is no election. The case was analogous in the election of an Israelitish sovereign. The people and the oracle must concur. A fair interpretation of the statute itself will lead

\* Jahn's Heb. Com. B. 3, ss. 24, 25. Mich. Comment. Art. 54.

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to this conclusion. "THOU shalt in any wise set him king over thee, whom the Lord thy God shall choose: one from among thy brethren shalt THOU set over thee: THOU mayest not set a stranger over thee, which is not thy brother."\* That the oracle was to be consulted in the election, this passage places beyond doubt. That the people also were to have a voice in the transaction, it makes almost equally clear. The earnest cautions, addressed to them in reference to the choice of a sovereign, would be absurd, if all liberty of action were absolutely taken from them, and they were simply to receive one, arbitrarily imposed upon them by the will of another.

But the meaning of the statute may be best studied in the actual application of it. In this, as in other instances, the history throws light upon the code. In regard to the institution of the monarchy, and Saul's elevation to the throne, let any one attentively read that part of the first book of Samuel, which is contained in chaps. 8- 11, and he will find set forth in it the following facts. Samuel convoked the general diet of Israel at Mizpeh. There, after recounting the Lord's past mercies to them, he reminded them, that in demanding a king, they had rejected Jehovah; who had himself saved them out of all their adversities. He then called them to present themselves before the Lord by their

tribes. On the application of the sacred lot, the tribe of Benjamin was taken. Afterward, in a similar manner, the family of Matri was taken; and then, in the same way, Saul, the son of Kish, was selected. Samuel then presented the nominee of the oracle to the representatives of the people for their approval and confirmation. Many of them, probably a majority, gave an affirmative vote. But a powerful minority opposed his investiture with the royal authority, on the ground, that they did not believe him possessed of sufficient military talent and experience to lead the Israelitish armies to victory. The narrative inclines me to think, that Saul was not inaugurated and

\* Deut. vii. 15.

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invested with the kingly power on this occasion. The circumstances, which seem to me to render this a probable opinion, are the following. Saul assumed neither the state nor the authority of a king; but went back to his agricultural pursuits in Gibeah, as aforetime. No tribute was levied for him, nor any arrangement made for supporting the regal dignity. He received gifts from only a few, while by many he was openly condemned. The mass of the people paid him scarcely any deference at all. Samuel did not let go the reins of government, nor resign his power as chief magistrate of Israel; for his authority was joined to that of Saul in summoning the Israelites to the assistance of Jabesh-gilead, against Nahash, king of the Ammonites. In this war, Saul exhibited military talents of a high order. Nor were the moderation and clemency, displayed by him, at its close, towards those who had opposed his elevation to the throne, less signal. His valor, prudence, and magnanimity completely won the confi-

dence and the heart of the nation. Samuel, taking advantage of this favorable temper of the people, convened a general assembly at Gilgal, proposed Saul as king a second time, and obtained a unanimous vote in his favor. Then, for the first time, it is said, that they, that is, the people, made Saul king, and gave themselves up to great and general rejoicings. Immediately after his inauguration, Samuel formally resigned his office as judge, surrendering his authority into the hands of the people, from whom he had received it, and by whom he was honorably exonerated from all charge of blame in his public administration, and the fullest testimony was borne to the purity of his official conduct. Josephus\* says, that, on the occasion of Saul's election and inauguration at Gilgal, Samuel anointed him a second time. This seems not improbable, though the circumstance is not mentioned by the sacred historian; for the first anointing was a private transaction, and he was not anointed, when elected by the lot. From this

\*Antiq. l. 6. C. 5.

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time Saul assumed the reins of government, and was regarded as the lawful sovereign of Israel.

How clearly do we see from this detail, that the choice of a king in Israel was neither in the oracle nor the people separately, but in both conjointly; since the decision of the former did not take effect, till it was ratified and confirmed by the action of the latter. How manifest is it, that the miraculous designation of magistrates in the Hebrew commonwealth, was never understood to exclude the free

suffrage of the people in their election. If these things still seem to any irreconcilable, we are able to adduce examples of their co-existence even out of the history of heathen states. It is related by Livy\* of Tarquinius Priscus and Servius Tullius, that, before they were raised to the regal dignity at Rome, the one had his hat taken off; borne aloft into the air, and fitly deposited again in its place, by an eagle; and the other had a flame resting on his head, which, after being for some time an object of terror to the beholders, glided off, on his awaking out of sleep, without leaving any trace of its presence on his person. By these portents it was believed, that each of them was designated of the deity to be king. Still, neither by themselves nor others were they interpreted as giving them a right to the throne, much less as excluding the popular suffrage from their election, or authorizing the opinion that any man ought to be king of Rome, whom the people had not first chosen to reign over them. Certainly I would not be understood, from this illustration, as intending to compare the vain prodigies of the heathens with the true miracles of the Israelites. Yet it should be remembered, that each people had a like opinion of each. God raised up judges for his people Israel. That the scripture plainly asserts. But to infer from hence, that the people did not elect them, would be false reasoning, since the fact is unquestionable, that they did. So, that God elected Saul to be

\* Lib. 1, c. 34, 39.

king of Israel, is certain. Yet it is just as certain, that the people did, none the less for that, themselves elect him likewise. The one certainly is as strong as the other.\*

The history of David's elevation to the throne still further illustrates the meaning of the statute under consideration. The house of Saul had, by God's command, on account of his infractions of the law, been excluded from the succession.† The prophet Samuel had, by direction of the oracle, privately anointed David as the successor of Saul.‡ The subsequent history shows, that that unction did not, of itself alone, confer a full and valid title to the crown of Israel. When Saul had been slain in a battle with the Philistines, an Amalekite stripped him of his crown, and brought it to David.§ Did David consider himself entitled to wear it? By no means. He assumed neither the crown itself, nor the authority, of which it was the symbol. He returned, with his followers, to the city of Hebron, as a private citizen. In that capacity, he abode there for some time, until, as the historian states, "the men of Judah (the citizens, the people of that tribe) came and anointed David king over the house of Judah."|| Thus did David, by the joint act of the oracle and the people, become king of Judah. The other eleven tribes raised Ishbosheth, a son of Saul, to the sovereign power, and adhered to him for seven years.¶ Did David, for that, regard them as guilty of treason? Not in the least. Yet that would have followed inevitably, if his unction by Samuel had given him a legal right to the throne of all Israel. David defended himself, (as who would not?) when attacked by the army of Ishbosheth;\*\* but he made no attempt to reduce the eleven tribes to allegiance to his government by force of arms. When at length they submitted themselves to his sceptre, their submission was voluntary. They freely chose him for

\* Harrington's Com. Isr. c. 2.

† 1 Sam. xv. 11, 26, 28.

‡ 1 Sam. xvi. 13.

|| 2 Sam. ii. 1-4.

2 Sam. i. 10.

¶ Ibid. ii. 8, 11.

\*\* Ibid. ii. 12-30.

their king; yet, in doing so, it is remarkable that they distinctly recognized the part which the oracle had previously taken in his election.\* Here, again, we perceive the concurrence of the oracle and the people, in the choice of a person to fill the throne of Israel.

It is probable, as we shall see in the sequel, that David, when he was made king, reserved the right of naming his successor. But, notwithstanding this, it is clear, that a general diet was held; that Solomon was formally proposed to them; and that they, by their free suffrages, confirmed the royal nomination." It was not till after this vote, that Solomon was anointed and inaugurated, and the people gave themselves up to the festivities, suited to the occasion. The history adds: "Then (i.e. after his election by the congregation) Solomon sat on the throne of the Lord as king, instead of David his father, and prospered; and all Israel obeyed him. And all the princes, and the mighty men, and all the sons likewise of king David, submitted themselves unto Solomon the king."‡ Manifestly, this submission and obedience were rendered to him, as having been constitutionally elected to the regal office.

3. The Hebrew sovereign was to be a native Hebrew citizen; he was to be elected from his brethren; no foreigner was to sit on the throne of Israel. This was a politic and patriotic law. A foreigner might change the constitution, or raise up a faction in direct opposition to, the national interest.§ Foreigners were heathens, and would be more inclined than Israelites to violate the fundamental law of the state, by the introduction of idolatry. But this law was grossly misinterpreted in the later periods of the Jewish history. It was understood as forbidding, on the



part of the Hebrews, submission to those foreign powers, under whose dominion they had been brought, through the overruling providence of

\* Ibid v. 1- 3.

† 1 Chron. xxix. 20- 22.

‡ Ibid. xxix 23, 24.

§ D'Israeli's Genius of Judaism, c. 4.

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God. It was on the ground of this misinterpretation of the law, that the Jews proposed that insidious question to our Lord, "Is it lawful to give tribute to Caesar, or not)"\* for they were at that time under a foreign power, Judea being a Roman province. If he had said yes, they intended to destroy him through the charge of subverting this law of Moses; if he had answered no, they meant to crush him by the power of Rome. But the law had, in reality, no reference to such a case. It referred to free elections. Moses speaks only of kings chosen by the Israelites themselves. A law, such as the later Jews conceived this to be, would inevitably have led to the annihilation of a conquered people. The conquerors, unable to trust their fidelity or rely upon their allegiance, would be driven to the necessity, either of putting them all to the sword, or scattering them by slavery. The Hebrew prophets interpreted the law quite differently from the Hebrew zealots. Jeremiah and Ezekiel exhorted their countrymen, when now a conquered people, to submit quietly to the Chaldeans, and conduct themselves as loyal subjects of the Babylonish government."

4. The Hebrew king was not to multiply horses. As the Israelites made no use of horses in agriculture, and but little as beasts of burden, employing for these purposes oxen and asses, and as they made most of their journeys on foot, and of course did not need them for travelling, this must be

understood as a prohibition against maintaining a strong force of cavalry. For defence cavalry was unnecessary. On the west Palestine had the sea. On the north, its barrier was a range of lofty and almost impassable mountains, where a mounted soldiery would be of little use. To the east and south, it was bounded by vast deserts, where an enemy's cavalry could not subsist, for want of forage. The only object, therefore, for which an Israelitish sovereign could desire to

\* Matt. xxii. 17.

† Mich Com. Art. 54. Jahn's Heb Com. B. 3, S. 25

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keep any considerable force of this description, would be to make foreign conquests. But it was against the whole scope of the Mosaic law, nay, subversive of its fundamental purpose, that the Hebrews should be conquerors of foreign countries, and their king a universal monarch. And as the keeping of a strong body of horse could hardly fail to engender a spirit of foreign conquest, it was expressly interdicted to the head of the state. He was especially forbidden to attempt the conquest of Egypt in order to obtain horses

5. The Israelitish sovereign was still further forbidden to marry many wives; so early were women dreaded as the corrupters of royalty. I look upon this law as a prohibition against keeping a numerous harem, or a state seraglio; that inseparable accompaniment of eastern despotism. Besides the inherent tendency of the thing to render kings effeminate, and dissolve their hearts in indolence and pleasure, there was a special reason against it in the Israelitish polity. It is incident to the keeping of a harem as a matter of

royal state, that the monarch seek out and collect together the most beautiful women of all nations. But all other nations at that time were idolaters. Moses dreaded the influence of heathen beauties upon the religious principles and character of the Hebrew kings. He feared that it would lead to the introduction and practice of idolatry. How reasonable his fears were, the history of So]lomon affords a memorable and melancholy proof. His harem contained a thousand women, many of whom were Moabites, Ammonites, Edomites, Zidonians, and Hittites, besides the daughter of Pharoah; " strange women." His wives turned away his heart after other gods. He appears to have built temples for them al], and himself joined in paying divine honors to Ashtoreth, and Milcom, and Chemosh, and Molech. The conduct of Solomon places in a very striking light the wisdom of this statute; at the same time that it shows, that none of the laws of Moses were less observed than this. It shows further, that the spirit of monarchy

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at least in the form in which it has always been found in the east, was repugnant to the genius of the Mosaic legislation.

6. The king was not greatly to multiply to himself silver and gold. Moses dreaded wealth, not less than women, as tending to the corruption of royalty. The possession of great treasure naturally leads to luxury, which is an enemy to virtue. It is, moreover, in a monarch, a great engine of despotism. He may use it for crushing the liberties of the people. The hoarding up of large treasures by the sovereign tends to obstruct the circulation of money, discourage industry, and impoverish his subjects. The Israelitish king, observes Lewis,\* "was allowed to lay up money in the

treasury at the temple, for the occasions of the state, but was forbidden to fill his own coffers for his private interest, lest he should squeeze his subjects, and exact more of them than they were able to bear." There is, undoubtedly, as Michaelis† has noticed, a wide and obvious difference between these two sorts of treasure. That laid up in the public treasury, the king could not use, without the consent of the other branches of the government. Of course, he could not pervert it to purposes of tyranny, on presence of applying it to the public service. David had collected large treasures for the sanctuary.‡ According to the common reckoning, they amounted, in round numbers, to four thousand three hundred and five million dollars, a sum almost beyond belief. Michaelis (in his Commentary on the Age anterior to the Babylonish Captivity, § 7.) estimates the shekel at one tenth the value usually assigned to it. This would reduce the amount to four hundred and thirty millions. But Kennicott§ is of the opinion, that, in the enumeration, a cypher too many has crept in. cutting off that, there still remain forty three million

\* Antiq. Heb. Repub. B. 1. c. 5.

† Com. on Law of Moses, Art. 54.

‡ 1 Chron. xxii 14.

§ Dissert 2. p. 354.

dollars, which, says Michaelis, for David's time, is still a very great treasure, and only to be accounted for, from the plunder of so many nations.

7. The sovereign of Israel must be the defender of religion. Judaism could exist only in a constant triumph over idolatry. " By the fundamental law of the Hebrew commonwealth, the king was forbidden to introduce any new mode of religious worship. Neither could he, like the kings

of other nations, perform the functions of a priest, unless he was of the tribe of Aaron, as was the case with the Asmonean princes. On the contrary, he "as required to reign as the representative and vassal of Jehovah, to promote the institutions of religion as a matter of obedience to him, and to attend to the declarations of the prophets, as his ambassadors." \*

8. The law, and not the king's own will and pleasure, was to be the rule of his administration. This point was made very prominent in the statute, as the reader will perceive by recurring to it. The king was required to make, or cause to be made, an accurate transcript of the law out of the book, which was before the priests the Levites; that is, probably, the autograph, kept in the tabernacle. This he must have with him continually, and read therein all the days of his life, to the end that he might learn to keep all the words of this law and these statutes, to do them. He might not "turn aside from the commandment (the constitution and the laws) to the right hand or to the left." From this we see, that the laws were supreme. The kings were as much bound to observe them, as the private citizens. They had no power to make or repeal a single statute. We have here a perfect exemplification of a government of laws. The constitutional king of Israel could not assume and exercise arbitrary power, without first trampling under foot the fundamental law of the state. Moses made him simply the first citizen. He aimed also at making him the wisest, the purest, and the best.

\* Jahn's Heb. Com. B. 4. S. 26.

9. The king must be gracious and condescending

towards his subjects. His heart must not be lifted up. He must look upon his people, not only as equals, but as brethren. We find the best kings cherishing this sentiment, and acting upon it. When David addressed the states-general, he rose before them, and used this affectionate compellation: "Hear me, my brethren, and my people."\* On this foundation the Hebrew doctors have established the rule, that the king must render honor to the general assembly; when it presents itself before him, he must rise from his seat, and receive it standing.†

10. All the above conditions being observed by him, whom the Israelites should choose for their king, the throne was to be hereditary in his family. This is plain from the concluding words of the statute, which are as follows: "To the end that he may prolong his days in his kingdom, he and his children, in the midst of Israel." Moses enjoins it upon the king to keep the laws, that he and his posterity may long fill the throne. But it is quite as important to observe, that, although the sceptre was hereditary, it was not inalienable. It might be taken from one family and given to another, by the concurrent will of Jehovah and the Hebrew people. Nay, it certainly would be thus transferred, if the king failed to govern according to the laws. The Hebrew crown, then, was elective, not in the sense that every individual king was to be chosen, but only, when occasion required, some particular family. "Consequently, while the reigning family did not violate the fundamental laws, they would continue to possess the throne; but if they tyrannized, they would forfeit it. Moses, who gave this injunction, knew certain elective monarchies, where every individual king was chosen, as in Poland. The kingdom of Edom in his time was undoubtedly

\* 1 Chron. xviii. 2.

†Schickard de Jur. Reg. Haebr. p. 91, cited by Salvador, L. 6, c. 9.

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of this description; for of eight kings, we find not one, who was the son of his predecessor "\*"

Thus we perceive, that the Israelitish kings were now absolute and unlimited sovereigns; they were constitutional monarchs.† Besides that original and fundamental law, which we have just been examining, a special capitulation was sworn to by the kings of Israel. The compact between Saul and the Hebrew people, made when he was chosen to the royal dignity, was drawn up by Samuel. That writing, in which doubtless were specified the rights of the king, was carefully deposited in the sanctuary.‡ Of its contents, how ever, the bible does not inform us. Still, there can be no doubt, that the limitations of the royal power, fixed by it, were numerous and important. This is the more probable, as we find several of the kings of Israel, whose sway was much less limited than that of Saul, yet subject to very great restrictions.

When the eleven tribes submitted to David, we again find express mention made of a compact between him and the people, called a league, or covenant;§ yet, as in the former case, we are ignorant of its specific provisions. There is probable ground for the conjecture, that it gave to the king the right of naming for his successor whichever of his sons he might think most capable of filling the throne beneficially to the nation; for this right David not only exercised, but all Israel conceded it to him; insomuch that Bathsheba, instructed by Nathan, said to him: "The eyes of

all Israel are upon thee, that thou shouldest tell them who should sit on the throne of my lord the king after him.”|| And we find, that the bare word of the king, in the last extremity of old age,

\* Mich. Com. Art. 54.

†The remaining part of this chapter is, for substance, though much condensed, and otherwise not a little modified, taken from articles 55- 60 of the Commentaries of Michaelis.

‡ 1 Sam. x. 25      § 2 Sam. v. 3.      || 1 Kings i. 20.

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was sufficient to place Solomon on the throne, in opposition to the wishes of the eldest brother, the general of the army, and the high priest, and to prevent the coronation of Adonijah, even although the ceremony had been commenced.\* This right of setting aside the first born by the arbitrary will of the king is not usual in hereditary monarchies, and therefore it is probable, that it was conferred upon David by the terms of the capitulation.

The ten tribes proposed to Rehoboam some new stipulations, with a view to abridge the royal prerogative, as exercised by Solomon. This was, in tact, a new capitulation, offered to the young monarch by a people yet in possession of their liberty. The king despotically refused their terms. Thereupon the ten tribes refused their allegiance to him, and chose a king for themselves, who, no doubt, acceded to the wishes of the people, and promised to abide by the stipulations required.†

When Joash was anointed king, mention is again made of a covenant between him and the people.‡ But here, again, the history gives us no certain information concerning its contents. Yet there is no doubt, that the design of the people, in imposing this capitulation upon their king,



was to bring the royal prerogative, stretched beyond all bounds in the preceding reigns, within something like the original limits, affixed to it by the law of Moses.

Upon the whole' it is quite clear, that the king of Israel was not an unlimited monarch, as the defenders of the divine right of kings, and of the passive obedience of subjects, have been accustomed to represent him. § How could he be so, when every tribe was under its own chief, had its own government and common weal, and even exercised the right of war? || Saul, the first of the kings, appears to have had very little power. In the beginning of his reign (if his reign

\* 1 Kings i. 25- 27. † 1 Kings xii. 1- 20. ‡ 2 Kings xi. 17.

§ See Filmer passim. || See the last chapter.

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commenced at his first election, according to the common opinion, which, however, I doubt, for reasons previously assigned,) he still pursued the business of husbandry, apparently laboring with his own hands.\* Afterwards, his army, even in the field, shared with him many of the rights of the supreme power. † In the reign of David, such was the power of this army, that he found it prudent to allow two murders, perpetrated by its general, Joab, to go unpunished, though he did so with extreme reluctance. In this, we may perhaps think, that we perceive the marks of a military government, where the army is omnipotent, and while it renders the king independent of the people, still keeps him in subjection to itself. But this was by no means the case. For, in the first place, the army was the people; and both Harrington ‡ and Lowman § are of the opinion, that its officers were, to a great extent at least, the deputies who composed the general diets of Israel. But, secondly, the military was so in subjection to the civil power, the

king and the army were so limited by the liberty of the people, that the king appears not even to have had the right to demand of the cities of Israel the opening of their gates to his troops. The story, contained in 2 Sam. 20 :1- 20, seems to warrant this conclusion. Sheba, a rebel, had thrown himself into the city of Abel. Joab besieged it by David's orders. The citizens declared that they had no share in the rebellion. They did not, however, on that account, open their gates to Joab; but they sent him the rebel's head, and he quietly retired with his troops. Even Solomon, who carried the royal prerogative to a great height, and ruled quite after the manner of a despot, built cities of his own for his cavalry and his chariots, not venturing to quarter them on the people. In the latter times, from the reign of Hezekiah, we find the kings still more circumscribed in their power, by their privy council.

\* 1 Sam. xi. 5.

‡ Commonwealth of Israel, C. 2.

† Ibid. xiv 44, 45.

§ Civ. Gov. Heb. C. 8,.

But notwithstanding the limitations of the royal prerogative, imposed by the law of Moses and the jealousy of the people, there was yet, as Samuel had forewarned his countrymen there would be, a strong tendency to despotism, in the government of the Israelitish kings. Their will often became law, even in matters of the highest importance. How tyrannically did Saul act towards David, and those eighty priests, whom he caused to be put to death, without the shadow of a trial or a crime!\* In the condemnations and pardons, pronounced by David, we also perceive the decisions of despotic authority. Solomon went still greater lengths in this respect, even to the deciding on

life and death by his bare will and word.†

The notion, that the king in person should be the supreme judge, a doctrine peculiarly Asiatic, tended strongly to promote the despotism of the Israelitish monarchs. Of the king, there fore, as chief judge, it will be necessary to speak somewhat in detail. It is one of the first ideas of the orientals respecting their king, and what they naturally expect of him, that he should himself administer justice. Hence we are not surprised to find it related by Herodotus, that the Medes once obtained a king from the following circumstance. A man, who had great reputation for wisdom and integrity, and to whom almost all were wont to resort as an arbiter in cases of dispute, refused at last, from the neglect of his domestic concerns occasioned by it, to decide upon their quarrels, or to listen to their applications for that purpose; and thus he forced them to choose him for their king. The more ancient nations are, and the nearer to their origin, the more prevalent do we find this idea of a king. Indeed, while nations are yet in their infancy, and the number of the people small, it is easier to act upon this doctrine. The king of a thousand families may do what to the king of a million would be impossible.

In a great nation, the king cannot, in his own person, exercise

\* 1 Sam. xxii. 17, 18. † 1 Kings ii. 25.

the office of judge, without materially injuring the general interests of the citizens. He cannot have time to inform himself sufficiently of such a multiplicity of lawsuits, as he must be called upon to decide. Hence, either many a litigant will not obtain a hearing at all, or causes in general

will not be sufficiently investigated, and arbitrary and unrighteous decisions will follow. The mischief is still greater, when the king is very gracious, and gives free access to all his subjects. In that case, he is apt to be overwhelmed with trifles, and villainy takes advantage of his goodness, to effect the ruin of the innocent and the simple. On the other hand, if his subjects have not free access to him, another evil arises, of no less magnitude; for then his ministers may be guilty of the grossest injustice and oppression, and yet the sovereign know nothing about it. In Asia, it is more practicable for the king to be judge in his own person, than in Europe, because there, justice is, in general, very summary, and independent of settled forms. Still, this does not make it less liable to abuse, nor the actual abuse less mischievous in its consequences.

If the first kings of Israel assumed the office of judge, the fault lay in the manners of the east. Moses is not responsible for it. He did, indeed, ordain, that the king should be a daily student of his law, but not that he should discharge the office of a universal judge. It is, undoubtedly, highly useful to a king to be acquainted with civil law, that he may keep his eye on his subordinates, and know whether they decide conformably to it. In this view, it would appear, Moses desired, that the king should not be ignorant of jurisprudence; but he did not mean to constitute him the daily judge of his people. Let the following circumstances be considered. Moses himself found, by experience, that it was beyond his power to determine all the disputes among the people, and therefore, he appointed other judges of various grades; yet, in matters, which could not be decided by written law, known usage, or manifest equity, he established an appeal to himself,

that, on such occasions, he might consult God, and enact new laws by his direction.\* Could he, then, have thought of imposing on the kings a burden, which he was himself unable to bear? The king was not a prophet; neither did he, like Moses, enjoy the privilege of immediate intercourse with God. Consequently he could not, by a direct consultation with the unerring one, pronounce an infallible judgment. The high priest, according to the constitution of Moses, was the supreme jurist. Certainly, the legislator, who devoted one whole tribe to the study of jurisprudence, and constituted its head the supreme legal authority, could never have intended, that the king, occupied, as he must be, with the cares of government, and with the conduct of wars, should, in addition, be overwhelmed with the investigation of lawsuits, which could not, as a consequence, fail to be decided too much in the summary style of military procedure.

All this was, undoubtedly, in the plan and intention of Moses. Yet, on its actual institution, and as matter of fact, the Israelitish monarchy was not, in this respect, thus wisely regulated. Without inquiry, without trial, without the intervention of any impartial tribunal, Saul condemned to death eighty innocent priests, and, among them, the high priest himself; together with their wives and children.† David was far from being a tyrant; yet, on some occasions, he had recourse to judicial procedure equally summary, and without allowing other judges to interfere.‡ Even his acts of grace took place without those preliminary and circumstantial inquiries, which, in governments not despotic, are deemed necessary to render them valid, and to prevent artifice and fraud from abusing the royal clemency, to the scandal of justice and the prejudice of the country. Of this, a memorable instance is afforded in the

## pardon of the supposed son

\* Exod. xviii. Numb. xv. 32- 36.

† 1 Sam. xxi. 11- 19.

‡ 2 Sam. i. 5- 16. iv. 9- 12. xiv. 4- 11. 1 Kings ii. 5- 9.

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of the widow of Tekoah.\* Had the king instituted the least Inquiry into the facts of the case, he could not have been inveigled into a condemnation of himself.

In the time of this king, the defect, which had thus attended the administration of justice, broke out into a formidable evil. As long as David was king of Judah alone, it was not beyond his power, in some measure at least, to execute the office of judge. But when he became king of all Israel, and his known humanity and love of justice probably induced too many of his subjects, all of whom had free access to his presence, to bring their causes immediately before him, he found himself overpowered with business, and the course of law became tedious, to a degree till then unknown in the east. The complaint does not appear to have been, that unjust decisions were rendered; but that, for want of time to hear them, even clear cases could not be decided. It is probable that the course of law was still rapid, in comparison with what it is with us: but Asia is so much accustomed to summary justice, that the least delay there seems a great grievance. It was not imputed to negligence in David, that he did not do more than one man could do; and the tears with which Jerusalem, where he was best known, accompanied him in his flight from Absalom, impress us with a favorable idea of his previous government. Absalom, however, availed himself of the opportunity, which the tediousness of justice

presented him, to seduce the affections of the people from his father. He placed himself at the entrance of the palace, and questioned the complainants, who came from the provinces to the capital, concerning their suits. Having heard their statements, he told every one that his case was clear, and that it was greatly to be regretted, that the king, oppressed with business, would appoint no one to listen to complaints. At the same time, he expressed a wish, that the king would commit the task to him, in which case

\* 2 Sam. xiv 4- 11L

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every man might look for speedy justice.\* By this artifice, for which a departure from the true intent of the Mosaic constitution furnished the occasion, he excited a general rebellion, which was attended with much bloodshed. Without any battle, the universal discontent of the tribes drove David from the throne; nor did he recover it, till the blood of many citizens was spilt. It is not mentioned in the history, what measures the king took after his restoration, to correct those defects in judicial procedure, which had almost cost him his crown. We know, however, that, in the latter part of his reign, he appointed several thousands of Levites as judges." With these he probably filled some of the higher tribunals, which administered justice in the king's name. The Levites in the provinces are expressly said to have had charge of all matters pertaining to God and the king.‡ Of course, they must have had power to administer justice in the king's name.

Notwithstanding this, however, the king seems to have reserved the right of pronouncing arbitrary sentence, even in cases where life was concerned. The innocent blood,

which Manasseh and Jehoiakim are said to have shed, § renders this more than probable. It is true that blood may be unjustly shed, with all the forms of law, as in the case of Naboth. || But such instances are rare. If a tyrant shed much innocent blood, it affords ground of presumption, that he has the power of pronouncing on life and death in himself. At least European kings, even the most absolute of them, are prohibited from shedding much innocent blood; except, indeed, in the case of the hundreds of thousands, whom they sacrifice in unjust wars.

The mention of war naturally suggests the inquiry, how far the power of the Israelitish sovereigns extended in military

\* Sam. xv. 2- 6.

† 1 Chron. xxiii. 4. xxvi. 29- 32.

‡ 1 Chron. xxvi. 30, 32.

§ 2 Kings xxi. 16. xxiv. 4.

|| 1 Kings xxi. 1- 14.

matters. On this point, the sacred book leaves us very much in the dark. Whether the king could, of himself alone, and without consulting the states- general, proclaim war, and conclude peace, is a point, which must be reckoned among the chasms in our knowledge of Hebrew law. Here it would seem, the *jus publicum* of the Israelites was itself defective, because, on the first choice of a king, they had no ancient usage to guide them; and Moses, who did not himself establish a monarchy, but only permitted its future establishment, had said nothing on this point, but left all to the determination of the Israelites. It is certain, that Saul made his first war, without consulting the people.\* The case, however, was one of peculiar urgency; so much so, that he may almost be said to have been forced into hostilities, in defence of the threatened liberties of the



Gileadites.† From this case, therefore, nothing positive can be inferred in regard to the general right of the Hebrew sovereigns concerning war.

The royal prerogative extended to ecclesiastical affairs. Indeed, the rights of the kings in reference to matters of this nature, were so great as to excite our wonder, especially when we consider, that the priests and Levites, as a sort of nobility' were intended to balance the power of the kings. They could condemn even the high priest himself to death. Not only did Saul,; in his rage and madness, do this; but Solomon§ speaks as if he could have done it, and, out of pure clemency, was satisfied with deposing him. The kings exercised the right of reforming abuses in religion, and gave attention to the management of public worship, as the most efficacious means of promoting religion and morality, and so of securing the obedience of the people to the supreme, invisible, divine Sovereign of Israel. Of this exercise of the royal prerogative, we have many examples, of which none

\* 1 Sam. xi. 7

§1 Sam. xi. 2.

†1 Sam. xxii 17,18.

1 Kings ii 26, 27.

are more memorable, than those of David and Hezekiah. It was altogether suitable to the Hebrew constitution, in which the worship of one only God was the fundamental principle. Under that constitution, false religion was treason to the state, and it was proper, that the kings should have the power of exterminating so dangerous an enemy.

Among the prerogatives of the Hebrew sovereigns must also be placed the right of pardon. That this power should exist somewhere in the state, is highly expedient, and even

necessary. A civil law, without all possibility of dispensation, would be subject to very great inconveniences; and would be the occasion of sometimes inflicting very grievous wrong. Without a power of sometimes remitting punishments, innocence might suffer by the very law, which was made for its protection. That the right of pardon was exercised by the Israelitish kings, is beyond a doubt. Nor was the exercise of it always the effect of mere partiality, but of principle and a consideration of circumstances. David not only pardoned his son Absalom, but, in a supposed case, which was laid before him, he granted a murderer his life, who was represented to have killed his brother, because the mother herself interceded in his behalf, and his father's race would have been extinct, had he suffered the penalty of the law.\*

I now pass to a consideration of the royal revenues. Moses left no ordinance concerning them. With regard to what later laws and usages introduced on this head, the following particulars may be gleaned from the books of the Old Testament. The several branches of the king's revenue were, presents; tithes; royal demesnes; bond service; the right of pasturage in the Arabian deserts; the spoils of vanquished enemies; the tribute of conquered nations; and, in the end, the profits of a lucrative foreign commerce.

1. Presents. Long before the time of the kings, and even

\* 2 Sam. xiv. 4- 21.

before the age of Moses, there sprung up in the east a custom, often mentioned in the Persian history, and noticed by Asiatic travellers, that whoever paid a visit to a person of higher rank, carried with him a suitable present. Joseph,

as prime minister of Egypt, received such a present from his brethren.\* Saul did not presume to wait on Samuel, the judge, without a present.† This was, therefore, the most ancient source of a king's revenue, prior to all tributes and demesnes. That Saul actually enjoyed a revenue of this kind is certain.‡ Whether the tax continued to be paid to his successors, does not appear. There is no trace of it after the reign of Saul. It is not improbable, that David abolished so unseemly an impost, and admitted every petitioner into his presence, without subjecting him to any expense.

2. Tithes. In 1 Sam. 8:15- 17, mention is made of the tenth of the produce of tile fields, the vineyards, and the flocks, as the right of the future king. This, on his actual appointment, was the third tenth which every Israelite had to pay. The first was given to the Levites;§ the second was appropriated to the sacrifice-feasts, to which were invited priests, Levites, friends, orphans, and strangers.|| None but a very fruitful country could have borne the burden of an impost to the extent of three tenths of its produce

3. Royal demesnes. Samuel mentions a demesne, to which the king would have a right; for, says he, "he will take your fields, and your vineyards, and your oliveyards, even the best of them, and give them to his servants;"¶ i.e. in lieu of salaries. This seems inconsistent with the Mosaic law, which divided the whole of Palestine among the Israelites, and prohibited the alienation of their land. Nevertheless, it is certain, that the king had a demesne.\*\* It is likely, that at first

\* Gen. xliii. 11- 25.

† 1 Sam. ix.7.

‡ 1 Sam. x. 27, xvi. 20.

§ Numb. xviii. 21- 32.

Levit. xxvii. 30- 33.

|| Deut. xii. 17- 10. xiv. 22- 29. xxvi. 12- 15.

¶ 1 Sam. viii. 14.

\*\* Eccl. ii. 4- 6.

1 Chron. xxvii. 26- 31.

the kings took possession only of the spots, which had not been previously appropriated and improved, of which there might be found a considerable number, particularly beyond Jordan, and about the rills in the Arabian deserts. Still, that will not sufficiently explain the passage, cited a little above; for it is there said, the king would take the best parts of every sort of landed property.

We must, therefore, seek some other mode of providing him with demesnes. It is certain, that the kings exercised the right of bestowing the inheritance of state criminals upon other persons.\* It is not improbable, that they availed themselves of the same right, to increase the royal demesnes by confiscations. Indeed, we have an instance of this, in the case of Nabal, who was stoned on a false charge of treason, and his estate annexed to the king's demesnes.† This mode of increasing their lands must have formed a strong temptation to wicked kings, to put innocent persons to death for pretended crimes, in order to seize and appropriate their property. Need we wonder, that, in the Hebrew history, we find so frequent mention of the shedding of innocent blood?

All this is confirmed, and rendered certain, by what we find in Ezekiel. That prophet was favored with a vision of the future reformation of the Israelitish church and state.‡ In it he tells us, that the prince will then have his own portion, which he must neither alienate nor enlarge. It is very distinctly enjoined upon the king not to take the people's inheritance away from them by oppression, and not to thrust them out of their possessions. It is further enjoined upon him not to give lands to his family out of the people's portions, but out of his own. This clearly indicates the practices, and, I may add, the abuses, of preceding times.

The olive and sycamore grounds, in that part of the territory of Judah, which lay nearest the sea, and was called the

\* 2 Sam. xvi. 4.

† 1 Kings xxi. 15, 16.

‡ Ezek. xlv. 7, 8. xlvii. 16- 18

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lowlands, belonged to the king's demesnes. It is distinctly stated, that David placed one officer over the trees in that district, and another over the oil- stores.\*

That the kings assigned a part of the royal demesnes to their servants, in lieu of salary, appears unquestionable.† At a time, when the sovereign could be possessed of but little money. this was the natural way of maintaining and rewarding his servants.

4. Bond service. For the cultivation of their lands, the Israelitish kings, governing a country where slavery was permitted, would naturally require servile labor. Accordingly, we find bond service mentioned by Samuel among the royal rights, established by usage among the neighboring kingdoms, and which would be claimed and exercised by the Hebrew sovereigns, whenever monarchy should be instituted.‡ In process of time, these services seem to have been increased and altered, so that they became very burdensome and very distasteful to the Israelites.§ It was probably this, which gave occasion, first to the complaints, and then to the rebellion, in the reign of Rehoboam.

5. The right of pasturage in the Arabian deserts. This right belonged to the king, in common with his subjects. We find David taking advantage of this privilege, and keeping large herds of cattle, sheep, goats, asses, and camels, partly in Sharon, and partly in Arabia; the greater pelt of them, no doubt, in the latter place.|| Among the

officers, who had charge of them, two Arabians are mentioned, Obil, the Ishmaelite, superintendent of the camels, and Jaziz, the Hagarite, superintendent of the sheep.

6. The spoils of vanquished enemies partly flowed into the royal treasury. ¶

7. Among the royal revenues must be reckoned the tribute

\* 1 Chron. xxvii. 28.

† 1 Sam. viii. 14. xxii. 7.

† 1 Sam. viii. 12, 16.

§ 1 Kings v. 17, 18.

|| 1 Chron. xxvii. 29- 31.

¶ 2 Sam. viii. iii. 12.

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paid by conquered nations. These are often mentioned under the name of gifts.\*

8. Commerce. Solomon discovered a new source of royal revenue, which must have been very productive. He engaged in an extensive and lucrative foreign commerce, trading chiefly in gold, silver, precious stones, spices, linen, and horses. †

## CHAPTER V.

### The Hebrew Senate.

THIS was another department of the Hebrew government, and one of the bonds of union between the tribes of Israel. The study of this part of the constitution is not without its difficulty. The persons composing the senatorial council, the powers vested in it, and the functions dis-

charged by it, are points involved in no little obscurity. All the information, which I find in the sacred books, touching this subject, is embodied in the present chapter.

According to the Hebrew polity, as we have seen, † every tribe, and even every city, had its senate of princes, or elders, as well as a more popular assembly. Some such institution seems to be essential in every well-balanced government. A council of sages, venerable on account of their age, wisdom, and dignity, is necessary to check the rashness and haste of popular assemblies. Accordingly, we find, that free governments have always had senates of some kind, to balance the power of the people, to prepare matters of public business, and

\* 1 Kings iv 21. Ps. lxxii, 10 2 Sam. Viii. 6. † 1 Kings x. ‡ B. 2. C. 3.

to propose measures of state, in some degree of maturity, for the action of the more popular branch of the government\* That the commonwealth of Israel had a council of this sort, does not admit of a reasonable doubt. This is rendered certain by the frequent mention in the Hebrew history of the princes and elders of Israel, and the distinction, many times made, between the princes and the congregation. We are now to inquire when this body was instituted what it was, and how long it continued.

Bertram † has well observed, that the number of seventy elders, appointed by the law of God, was not so much a new institution, as the continuation of a former usage; as God rather confirmed than new instituted many things at Mount Sinai, which were ancient customs of the fathers.

Bishop Sherlock‡ also takes notice, "that every tribe had its own princes and judges," even while they yet remained in Egypt. When Moses was first sent to the children of Israel, to inform them, that Jehovah had visited them, and seen what was done unto them in Egypt, he was commanded to gather the elders of Israel together, and deliver the message to them.§ This direction was punctually followed, for it is said: "Moses and Aaron went and gathered the elders of the children of Israel."|| It is a material observation here, that, besides the princes of tribes, explicit mention is made, in the same period of the Hebrew history, of the heads of families, or clans.¶ Of these, as we learn from a subsequent part of the history,\*\* there were fifty-eight, who, being added to the twelve princes of the tribes, make up the number seventy.

There is little doubt, that, even before the exodus of Israel out of Egypt, these chiefs of tribes and heads of clans formed a council of state, a kind of provisional senate. They were

\* Lowm. Civ. Gov. Heb. c. 9.

† De Rep. Hebr. p. 51, cited by Lowm. c. 9.

‡ Dissert. 3. § Exod. iii. 16. || Exod. iv. 29.

¶ Exod. vi. 14 seqq.      \*\* Numb. xxvi.

regarded and addressed as persons of chief dignity in their respective tribes. That they were clothed with some sort of authority, is evident from what one of the Hebrews said to Moses: "Who made thee a prince and a judge over us?"\* It is, moreover, apparent, that these dignitaries formed an organized body, in whose counsels and resolutions the tribes themselves were united into one nation; since Moses addressed them, not as princes of particular tribes, but as



elders of Israel.† It deserves, also, particular attention, that when the Israelites left Egypt, it was in hosts, or by their armies, that they did it.‡ They did not go as a confused and disorderly rabble, hut; marched in battalions, each under its own officers and its own standard. This observation, though of little moment in itself, is, nevertheless, important for the inference, which it supports. Let it be remembered, that the Israelites left Egypt in great haste. Now, it would have been impossible for them to go in hosts, or squadrons, if there had not been persons, previously known and recognized as commanders. They could not otherwise have known under what standard they were to march, or by what particular officers they were to be led. Obviously, it would not have been practicable to organize an army of two and a half million people, at the instant of departure. It would seem, therefore, that, while the Israelites were yet in Egypt, the princes of tribes must have been acknowledged as general officers of the tribes, and the chiefs of families as subordinate officers commanding their respective clans.§ It was, in all likelihood, the same seventy, who, at the giving of the law, were summoned to go up unto the Lord, with Moses and Aaron.|| What places it out of all doubt, that these officers were an organized body, and acted as a council of state, or Senate of sages, is a law contained in the tenth chapter of Numbers.¶ Moses is there directed to make two silver trumpets. When both of them

\* Exod. xi 14.

† Exod. xii. 21, 28.

‡ Exod. xii. 41, 51.

¶ Lowm. Civ. Gov. Heb. c. 9.

|| Exod. xxiv. 1.

¶ Vv. 1-4

were blown, the whole congregation was to assemble; when only one of them, the princes and heads of the thou-

sands of Israel were to come together for the despatch of public business. But this law was given, before the body, which is the principal subject of this chapter, was called into being, and, indeed, before the events occurred, which were the special occasion of its institution.

The Israelites lay encamped at the base of Mount Sinai for the space of a year. At the end of that time, the trumpets sounded, the cloud was taken up from off the tabernacle of testimony, and the children of Israel took their journeys out of the wilderness of Sinai. Their first halting place was the wilderness of Paran.\* Here the people complained bitterly for want of flesh. Their murmurs displeased the Lord, and his anger was kindled greatly. Moses also was displeased, and greatly afflicted at so unpromising a state and prospect of affairs. He, in his turn, complained, that he found the burden of government too heavy for his individual strength. "I am not able," says he, "to bear all this people alone, because it is too heavy for me." By divine direction, and in order to alleviate the weight of the burden, that oppressed him, Moses instituted a council of seventy elders, who might share his functions, support his authority, and promote his views.† It was a supreme senate, designed to take part with him in the government. As it consisted of persons of age worth, experience, and respectability, it would serve materially to support his power and influence among the people in general. It would unite a number of powerful families together, from their being all associated with Moses in the government, and would materially strengthen the union of the tribes."

A detailed account of the origin of this body is given in the eleventh chapter of Numbers. The general mode of

## organization

\* Numb. x. 11- 13.

‡ Mich. Comment. Art. 50.

† Numb. xi.

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is related in these words :\*— "And the Lord said unto Moses, Gather unto me seventy men of the elders of Israel, whom thou knowest to be the elders of the people, and officers over them: and bring them unto the tabernacle of the congregation, that they may stand there with thee. And I will come down and talk with thee there; and I will take of the spirit which is upon thee, and will put it upon them: and they shall bear the burden of the people with thee, that thou bear it not thyself alone. And Moses went out, and told the people the words of the Lord, and gathered the seventy men of the elders of the people, and set them round about the tabernacle. And the Lord came down in a cloud, and spake unto him, and took of the spirit that was upon him, and gave it unto the seventy elders: and it came to pass, that when the spirit rested upon them, they prophesied, and did not cease. But there remained two of the men in the camp, the name of the one was Eldad, and the name of the other Medad: and the spirit rested upon them; and they were of them that were written, but went not out unto the tabernacle: and they prophesied in the camp."

"Three things," says Salvador,† "are here worthy of note. The candidate for the senatorial office must be a man of the people; he must be an elder of the people; and he must have been previously elevated by the voice of the people to some public trust." That is to say, he must be a tried man; a man in whom the people put confidence after trial; and a man of experience in public affairs.

The seventy senators, chosen from among the elders and officers, were to be brought to the tabernacle of the congregation, that they might stand there with Moses. In other words, they were to be solemnly inaugurated, and consecrated to this service, that they might be a permanent council, to assist Moses in the government of the people. To give the greater weight to their decisions, God promises, that he would

\* Vv. 16, 17, 22-26.

† Hist. Inst. de Moïse, 1. 2. C. 2

talk with Moses, to declare, suggests bishop Patrick,\* that he appointed them to be assistants to Moses in the government. The further promise was added, that the Lord would take of the spirit, which was upon Moses, and would put it upon them; that is, as again suggested by bishop Patrick,\* he would confer upon these men wisdom, judgment, courage, and other needful gifts of government, with which Moses was endowed. To give assurance of the fulfilment of this promise, it came to pass, that, when the spirit rested upon them, they prophesied. The spirit of prophecy was a manifest token, that they were chosen by God to be coadjutors of Moses, that they were approved by him, and that they had received from him a spirit of government.†

Yet these men were not chosen by God alone. The people concurred in the election. This is very evident from the history cited above. The names of the candidates are there said to have been written, or inscribed; a very important statement. In what manner were they inscribed? The text does not inform us; and the field is left open to conjecture. Let it be premised here, that, as the senators were to bear the common burden of government with Moses, which

concerned all the tribes, and that they were specially intended to prevent mutiny and sedition, it would be highly suitable, that there should be an equal number from each tribe, and that they should be persons, whom the tribes themselves approved. On this point, Hebrew and christian writers are unanimous. I now return to the question, How were the names of the candidates inscribed? Did Moses himself write the names of the persons, whom he judged competent and qualified for the senatorial office, and submit them to the approval of the tribes? This would have been to deprive the tribes of one of their fundamental rights, that of designating their own magistrates. Besides, Moses was not charged with appointing the senate, but with assembling it.

\* In loc.

† Lowm. Civ. Gov. Heb. C. 9.

It is not probable, therefore, that this is what is meant by their names being written. Did the citizens, then, of the respective tribes, themselves elect, by ballot, the persons, whom they believed most worthy of the dignity, and best fitted to discharge its functions usefully? This supposition seems the most reasonable. In the selection and appointment of magistrates, Moses demanded, not simply wise men, but such as were known among the tribes. How could this demand be answered, otherwise than by a manifestation of individual opinion? The history of the Acts of the Apostles sheds light upon this point, and lends confirmation to this conjecture. The apostles incorporated the principles of the Mosaic constitution into their spiritual society. Needing certain functionaries, they convene the whole body of the disciples, and after the example of their ancient lawgiver, they say to them: "Look ye out seven

men, of honest report, and full of wisdom."\* The proposition pleased the assembly. Thereupon, they themselves selected the functionaries, as suggested; and the apostles, in accordance with a long established national usage, inducted them into office by the solemn imposition of hands. † Here, again, I observe by the way, we see the concurrence of the oracle and the people in the election of civil rulers.

Such, then, was the general spirit of the law. Without insisting on the correctness of this or that particular mode of selection, the fundamental principle, which is well worthy to arrest our attention, is plain and obvious. The law institutes a great national council, or senate, composed, not of priests, but of civilians; not of men belonging to privileged classes, or possessing vast estates, but of men wise, prudent, able, of good repute, fearing God, and already skilled in affairs of state; not politicians merely, but statesmen, sages, patriots. The name of seniors, or senators, belonged to the members of the great council. It is probable, that men of advanced age

\* Acts. vi. 3.

† Salvador, 1. 2. c. 2.

were commonly chosen into it; yet young men, of superior endowments, sometimes gained admission. This we learn from the speech of such an one in the Wisdom of Solomon,\* who boasts, that in spite of his youth, he had obtained an honorable distinction for wisdom among the senators.

The design and functions of this institution are points of chief importance in this inquiry. The law declares, in gen-

eral terms, that the senators were to bear the burden of the people with Moses, that he might not bear it alone. By this can hardly be meant the ordinary administration of justice, for provision had been made for that in the institution of the Jethronian judges. So far, therefore, as the senate was to assist Moses in judiciary matters, it could only be in those greater and more important causes, which were to be brought before him on appeal, or those difficult questions, which which judges of the inferior courts themselves referred to him. But this was not the principal end of its institution. The occasion of its appointment is a proof of this. It was instituted to crush a rebellion. But for such an end, of what use would a mere Court of Judicature be? On the other hand, a council of sages, a supreme senate, composed of men venerable for their age, and of approved wisdom and integrity, would be of the greatest efficacy. There can be no doubt, therefore, that these seventy were to be permanent assistants of Moses in his councils. They were to aid him with their advice on all occasions, to preserve peace and good order among the people, to strengthen the sentiment of loyalty to the constitution, and to prevent those mutinies and seditions, which, if permitted to break out and rage, would in the end prove fatal to the government and the nation. "In this view," observes Lowman,† "the seventy elders will appear to be designed, not only as a standing court of law and equity, to assist Moses as judge in causes of greater consequence, and in appeals, but to assist the judge with their advice

\* C. 8. V. 10. seqq.

† Civ. Gov. Heb. c. 9.

on every occasion. This was properly to bear the burthen

of the people together with Moses, that he might not bear it himself alone. For now the judge would not bear all the envy or ill will of the people, when dissatisfied or uneasy with any part of the administration; for the common people, though they know very little of the reasons of any administration, are yet apt to think every thing wrong, that does not please them, or which is attended with difficulties to themselves or the public. Now, a council of seventy persons, of the most approved wisdom and integrity, would at least share this burthen among them all, instead of throwing the whole on one man. And it would be, moreover, an ease to the judge's own mind, and make him more resolved in any counsel to be taken or executed, when it should be with the advice and approbation of a multitude of counsellors, in which there is wisdom and safety. And, finally, it was proper to give authority and respect to such orders as should be made by advice of persons, whom the people themselves had approved and chosen, as eminent for their wisdom and integrity. Consider, then, this court as a standing senate, always at hand, or as a constant privy council to the judge, and we have a most wise provision for the easier and better government of the whole nation; and this will make a considerable part of the states-general of the united tribes."

Still, it must be borne in mind, that the senate was not the government; it was only a constituent part of the government. It was but the council of the nation; the head, as it were, of the general diet. In all important questions, its decisions were to be submitted to the congregation, which, by its approbation, enacted them into laws. Of this we have a clear proof in the twentieth chapter of Judges, where the ancients are recorded to have called upon the general assembly of the people to deliberate upon a matter,



and give their decision. Even when the Hebrews demanded a king, they were far from wishing to change this part of the constitution.

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Hence it has been observed by the abbé Guénée,\* that "it was always the duty of the king to govern the nation according to the laws. Their authority was neither despotic nor arbitrary. The senate, composed of the most distinguished members of all the tribes, served him as a council. He took their advice in all important affairs; and if any thing occurred, in which the interest of the whole nation was concerned, the congregation, that is to say, the assembly of the people, was convoked. The senate proposed, the congregation decided, and the king executed." A memorable example of this we have in 1 Chron. 13:1-8. David, after consulting with his counsellors of state, in regard to the removal of the ark, refers the final decision of the question to the congregation of Israel. They, upon deliberation, approve and enact. Immediately thereupon, David proceeds to execute the decree. But it must not be inferred from hence, that the general assembly never took the initiative, much less that it had not the right of so doing. Moses tells the Hebrews, that on a certain occasion he made a proposition to them, which they approved and accepted; whereas, on another occasion they proposed a certain measure to him, which, meeting his cordial approbation, he accepted and executed.†

Such, then were the leading powers of the Hebrew senate. Let us inquire by what limitations they were confined within their just bounds. The Jewish law opposed itself invincibly to the existence of great landed proprietors, and thus prevented the members of the senate from uniting the

influence of vast territorial estates to that which they derived from their office. The senator received no salary for his services. His age and the conditions of eligibility to the senatorial dignity served as a guaranty of his integrity. The decrees to which he contributed, extended to his children, his friends, and himself. Out of the senatorial seat, he web but a simple

\* Lettres de quelques Juifs à Voltaire, tom. 2, lettr. 2.

† Deut. i. 13, 22, 23.

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Israelite. The office was not hereditary; and the son of a senator was no more, in the eye of the law, than the son of the humblest citizen. These, however, were rather moral than legal restraints. But the sacerdotal magistracy, engaged by its very nature to the guardianship of the law; the prophets, those stern state censors and moralists, who launched the most unsparing denunciations against all, who in any way abused the trusts confided to them; the decisions of the oracle; and the necessity of the intervention of the congregation of Israel in important questions, furnished guaranties, of a positive and effective character, against the usurpation and tyranny of the Hebrew senate. Here is a system of moral and legal restrictions upon power, to which it would be difficult to find a parallel in other governments. The remark of Blackstone respecting the English constitution, is equally applicable to the Hebrew polity, viz. that every branch of it supports and is supported, regulates and is regulated, by the rest. The senate, the congregation, the chief magistrate, the oracle, the Levitical order, and the prophetic office, constituted so many checks upon each other's power, so many dykes and embankments to restrain the exercise of tyranny, so many

combined forces to give the machine of government a safe direction, and cause it to move in the line of the public liberty and happiness.

It has been a question with some, whether the senate of seventy, instituted by Moses on the occasion of the rebellion in Paran, continued permanent. Calmet\* endeavored to discredit the continued existence of this council. In this opinion he is followed by Michaelis.† But the common and more probable opinion is, that it was a permanent body. Bossuet‡ says: "To maintain the law in its vigor, Moses formed an assembly of seventy counsellors, which may be termed the senate of Israel, and the perpetual council of the nation."

\* Dissert. sur la Police des anciens Hébreux.

† Hist. Univ. Pt. 2, §3.

‡ Comment. Art. 50.

The abbé de Fleury\* observes: "As often as mention is made in the scripture of assemblies and public affairs, the elders (or senators) are put in the first place, and sometimes named alone. Thence comes the expression in the Psalms, exhorting to praise God in the congregation of the people, and in the seat of the elders, that is, the public council." There is, indeed, a strong antecedent probability against the abolition of this council on the death of Moses; for, as Basnage† well suggests, "if that great legislator needed such a council, during his life, it must have been still more necessary to those who succeeded him in the administration of the republic." Salvador‡ has an able if not a convincing argument, to prove, that the senate is often designated in the sacred books by the name of its president, or of the general judge, in the same manner as

the senate of Venice was called "most serene prince." Thus, when the Hebrews say, that a man judged Israel, he thinks the expression signifies, that he governed in concurrence with the senate. The argument, by which he supports this view, is not without force; but the reader, who would judge of it, is referred to the original work. Undoubtedly, the senate underwent many changes in the progress of time. It would be interesting, but it does not belong to my present work, to trace these revolutions. I, therefore, dismiss the subject with the remark, that, what ever vicissitudes it experienced, it appears always to have maintained its existence.

A difficulty will have occurred to the reflecting reader, as he has followed me through the above detail. The chapter professes to treat of the Hebrew senate; but, in reality, it has exhibited two distinct councils, one instituted in Egypt, and the other in the wilderness, without attempting to adjust or explain their relation to each other. This is a difficulty, not a

\* Manners of the Anc. Israelites, c. 21.

† Histoire des Juifs, 1. 2, c. 2.

‡ Hist. des Inst. de Moïse. 1. 2. c. 2.

little formidable in appearance. Which of these was the senate of Israel? Did the latter supersede the former? Or did they co-exist, and in that case, was there any union between them? I have little doubt, that Lowman\* has hit upon the true solution of the difficulty, and I shall here condense the view, which he has taken of this part of the Hebrew constitution. His idea is, that the original senate, composed of the princes of tribes and heads of families,

continued to exist, after the institution of the sanhedrim. The grounds of this opinion are as follows: When the children of Reuben and Gad came with a petition to have their settlement assigned them on the east of Jordan, they came and spake unto Moses and Eleazar the priest, and unto the princes of the congregation.† Though this was long after the institution of the sanhedrim, yet the princes of the congregation are assembled to consider the proposal; as they had been before in the case of female succession,‡ and as they were afterwards upon the regulation of the marriage of heiresses.§ When Joshua made a league with the Gibeonites, it was confirmed by the princes of the congregation.|| Other instances of the like nature might be cited, but let these suffice. Now, as these persons are described by the titles of princes and chief fathers of the children of Israel, it is plain, that the same persons must be meant, who were princes of tribes and heads of families before the institution of the sanhedrim, and whose rank and authority were not taken away by the formation of that court. They were still the great council or senate of the nation. But what, then, becomes of the sanhedrim, instituted by Moses? Both classes of officers are spoken of in such a way, as to show, that they were employed in the great affairs of the nation. Why, then, may we not conceive of the sanhedrim as a select senate, a sort of privy council, while all the princes of Israel still had sessions.

\*Civ. Gov. Heb c. 9.

† Numb xxxii 1, 2.

‡ Ibid. 27.

§ Ibid. 36.

|| Joshua ix. 15.

and vote in the great and general council of the nation, which when assembled, was called by the ancient style, the princes of the congregation. This may be the reason,

why the elders of the sanhedrim have so little apparent notice taken of them; for, when the general national senate was assembled, they were considered only as particular members of it.

Lowman conceives, that the constitution of the old parliament of Paris may give a pretty accurate idea of the senate of Israel. The kings assembled the great men of the kingdom, and these assemblies were called the king's court or parliament. The great men, who attended these assemblies were styled barons of the kingdom, and afterwards peers of France. They were the bishops, dukes, earls, and all the great tenants, who held immediately of the crown; but as it was not easy to examine fully many of the affairs, which came before them, the kings gave commission to men of abilities, to assist with their care and counsels; and these counsellors were called masters of parliament. In the parliament of Paris, then, all the peers of France had session and vote, but the ordinary business was transacted by a select number of counsellors. Somewhat after this manner, it is most likely, the senate of Israel was constituted. The elders of the sanhedrim formed a select council, to assist the chief magistrate on ordinary occasions; but on occasions of greater moment, and especially when the states-general were convened, the national senate of Israel consisted of princes of the tribes, heads of families, and elders of the sanhedrim. But however this might be, and whoever the persons were who composed the great council of the Hebrew nation, it is clear and undoubted, that, under the style of princes, chief fathers, or elders, there was a senate of the whole republic, who assisted the judge with their advice in affairs of moment. And this was a second bond of political union between the tribes

## CHAPTER VI.

### The Hebrew Commons

IN treating this subject, three inquiries present themselves viz. 1. Whether a house of commons, or popular assembly, formed a part of the Hebrew constitution? 2. If so, who composed it? 3. What were its powers?

The first of these interrogatories must be answered in the affirmative. It is an undoubted fact, that there was a popular branch in the Hebrew government. This body was called by different titles, as the congregation, the congregation of Israel, all the assembly, all the children of Israel, and the whole congregation of the Lord. Moses was directed to make two silver trumpets, and the following law was enacted respecting the use of them. "And when they shall blow with them, all the assembly shall assemble themselves to thee at the door of the tabernacle of the congregation. And if they blow but with one trumpet, then the princes, which are heads of the thousands of Israel, shall gather themselves unto thee."\* Other scriptures might be cited, but this passage alone is decisive; and, indeed, there is no dispute on this point among those who have written on the Hebrew institutions

In regard to the second question, viz. as to who composed the congregation, there is less unanimity of opinion. Lowman† does not doubt, from its being described in expressions so full and emphatic, as " all the congregation of Israel,"

\* Numb. x. 2- 4.

†Civ. Gov. Heb. c. 8.

"the whole congregation of Jehovah," and the like, that every free Israelite had a right to vote in this assembly. Harrington\* is of the same opinion. He says: "While the whole people was an army, Moses could propose to them in body, or under their staves, or standards of their camps; then he needed not, and so he used not, any representative." Both these writers think, that there were different manners of holding this assembly, the people sometimes voting in mass, and sometimes by deputies. The abbé Guénée† holds the like view. "The assemblies under Moses," he observes "while the Hebrews formed one great army, very much resembled the assemblies of the people at Athens, at Lacedaemon, and at Rome; but afterwards, it would seem, they were often composed of deputies, or representatives of the people, not unlike the parliaments of England and the states of Holland." Salvador,‡ the learned Jewish author, is of the same way of thinking. He regards it as the inalienable right of every Hebrew citizen to have session and vote in the general assembly, basing it, however, upon the false principle, borrowed from Rousseau,§ that the people, properly so called, have that in common with the Deity, that they cannot be rigidly represented but by themselves. Jahn|| also expresses the opinion, that, at least upon very important occasions, as many of the common people as chose to attend, took part in the deliberations and resolves of this body.

I cannot concur in the view of these learned men. More just and scriptural appears to me the opinion of Michaelis,¶ that the Hebrew people never voted as a pure democracy, but always, in the wilderness as well as after their settlement in Canaan, by known and authorized representatives. His



\* Commonwealth of Israel, c. 3.

† Lettres de quelques Juifs à Voltaire, Pt. 4. L. 2. Note.

‡ Hist. des Insts. de Moïse, l. 2. c. 2.

§ Contr. Soc. 1. 4. c. 15.

|| Heb. Com. B. 2. S. 14.

¶ Art. 45.

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argument in support of this view seems to me conclusive; and I therefore present it in his own words: "From various passages in the Pentateuch, we find that Moses, at making known any laws, had to convene the whole congregation of Israel; and in like manner, in the book of Joshua, we see, that when diets were held, the whole congregation were assembled. If on such occasions every individual had had to give his vote, everything would certainly have been democratic in the highest degree; but it is scarcely conceivable how, without very particular regulations made for the purpose, (which, however, we nowhere find,) order could have been preserved in an assembly of six hundred thousand men, their votes accurately numbered, and acts of violence prevented. If, however, we consider that, while Moses is said to have spoken to the whole congregation, he could not possibly be heard by six hundred thousand people, (for what human voice could be sufficiently strong to be so?) all our fears and difficulties will vanish; for this circumstance alone must convince any one, that Moses could only have addressed himself to a certain number of persons, deputed to represent the rest of the Israelites. Accordingly, in Numb. 1:16, we find mention of such persons. In contradistinction to the common Israelites, they are there denominated 'those wont to be called to the convention.' In the 16th chapter of the same book, ver. 2, they are styled 'chiefs of the community, that are called to the convention.' I notice this passage particularly, because it

appears from it, that two hundred and fifty persons of this description, who rose up against Moses, became to him objects of extreme terror; which they could not have been, if their voices had not been, at the same time, the voices of their families and tribes. Still more explicit, and to the point, is the passage, Deut. 29:9, where Moses, in a speech to the whole people, says, 'Ye stand this day all of you before the Lord your God, your heads, your tribes, (that is, chiefs of tribes,) your elders, your scribes, all Israel,

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infants, wives, strangers that are in your camp, from the hewer of wood, to the drawer of water.' Now, as Moses could not possibly speak loud enough to be heard by two millions and a half of people, (for to so many did the Israelites amount, women and children included,) it must be manifest, that the first-named persons represented the people, to whom they again repeated the words of Moses. Whether these representatives were on every occasion obliged to collect and declare the sense of their constituents, or whether, like the members of the English house of commons, they acted in the plenitude of their own power for the general good, without taking instructions from their constituents, I find nowhere expressly determined; but, methinks, from a perusal of the Bible, I can scarcely doubt, that the latter was the case. Who these representatives were, may, in some measure, be understood from Josh. 23:2, and 24:1. They would seem to have been of two sorts. To some, their office as judges gave a right to appear in the assembly; and these were not necessarily of the same family in which they exercised that office. Others, again, had a seat and a voice in the diet, as the heads of families."

But the particular constitution of the popular branch of the Hebrew government, as to the persons composing it, is a matter comparatively indifferent. The material part of the inquiry, which will be found eminently worthy of our attention, relates to the functions, which that body exercised. These were of a grave and important kind, and such as to evince the supremacy of the popular will under this constitution. A few instances, chosen out of many, will illustrate the powers confided to this department of the government. We shall find them broad and comprehensive, extending to the election of magistrates, the management of foreign relations, the adjudication of civil and criminal causes, and the care of ecclesiastical affairs.

In the nineteenth chapter of Exodus, we have a deeply  
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interesting account of the manner in which God was chosen king of the Hebrew people, and the laws adopted, which he proposed for their government. Moses, having received a commission to make the proposition to the nation, "came and called for the elders of the people, and laid before their faces all these words, which Jehovah commanded him. And all the people answered together, and said, all that Jehovah hath spoken we will do. And Moses returned the words of the people unto Jehovah." Here we have an account of the form in which questions were proposed and resolved in the national legislature. It is the just and philosophical remark of Lowman on this passage, that legal forms explain the true powers of any part of a constitution much better than general arguments. Let the reader observe how closely this form of voting resembles that called a rogatio among the Romans. A proposal from the senate to the people was in these words; "Is it

your will, O Romans, and do you resolve it?" To which the response, if affirmative, was: "We will, and resolve it." In the above election, the elders only are mentioned by name; but it is manifest from the expression, "all the people answered and said," that it was the act of the general diet of Israel. The term elders was not restricted to any one class of functionaries, and it is certainly sometimes applied to the members of the popular branch. And here, I may observe by the way, we have another proof, that the congregation was a representative body, and not the whole body of the people. It was certainly a select assembly, which, on this occasion, responded to the proposal of Moses; yet it is stated in the broadest terms, "all the people answered."

The appointment of Joshua to be the successor of Moses appears, from the record of it in the twenty-seventh chapter of Numbers, to have been made, or at least confirmed, by the popular vote in the national diet. He was to be set before "all the congregation;" and, when thus proposed, he appears

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to have been elected by their vote to the chief magistracy of Israel.

So also Saul, though designated to the regal office by the lot, was nevertheless chosen king by the great national diet, —the congregation of the people. Afterwards, to quiet the dissatisfaction of certain malecontents, Samuel summoned the people by their representatives to Gilgal, "to renew the kingdom there;" that is, to elect Saul king a second time. "And all the people went to Gilgal," says the historian, "and there they made Saul king before the Lord in Gilgal."\* When Adonijah, in anticipation of his father

David's death, endeavored to seize upon the supreme authority, the latter, by a royal edict, caused Solomon to be proclaimed king. But he immediately summoned the parliament of the realm, and proposed Solomon as his successor; and the history adds, "They made Solomon, the son of David, king the second time. \* \* \* Then Solomon sat on the throne, \* \* \* and all Israel obeyed him,"—evidently as being the sovereign of their own choice.† Josephus informs us that, when Moses announced the appointment of Aaron to the priesthood by Jehovah, he took pains to impress the assembly with a sense of his brother's great merits; whereupon, he adds, the Hebrews gave their approbation to him whom God had appointed. Jeroboam is expressly said to have been made king by the congregation of Israel.‡

These instances sufficiently evince the authority of the popular voice, through its representatives, in the election of the national rulers.

The management of the foreign relations of the nation belonged, in part, to the congregation. This is evident from what occurred in the case of the Gibeonites, soon after the passage of the Jordan. Joshua, deceived by their plausible tale, made with them a treaty of peace, which was confirmed

\* 1 Sam. x. 17- 27.

† 1 Chron. xxix. 22, 23.

‡ 1 Kings xii. 20.

by the oath of the senate of princes. But when the imposition was discovered, the congregation was loud in its complaints, and could with difficulty be induced to give its

ascent to the arrangement. It seems a fair inference from this relation, that a convention of peace, though made by judge and senate, still needed the ratification of the people, in their national assembly, in order to its full and binding authority.

The jurisdiction of the congregation extended also to civil causes. The question of female succession, in default of male heirs, was, by petition from the daughters of Zelophehad, laid before Moses, the priest, the princes, and all the congregation. Their father, they alleged, had died without sons; and their request was, that they might be constituted his heirs. The question, being a novel one, was referred, by the other departments of the government, to the oracle. The response was, that the demand of the young women was reasonable, and ought to be granted. Thereupon a decree was passed to that effect, and a law was enacted to settle the matter of female succession for all after ages. Here, by the way, we have the union of the tribes in the four departments of the government pretty plainly referred to. Here is the chief magistrate of the nation. Here is the oracle of Jehovah. Here is the senate of princes. And here, finally, is the congregation of all Israel.\* The body, before which this question was brought, was an assembly of the states-general of Israel, composed of judge, senate, and commons; and the history of the affair shows plainly, that questions of this nature were properly, according to the Hebrew constitution, brought before them.

To the congregation belonged likewise the right of taking cognizance of criminal matters. It was expressly charged with judging between the slayer and the avenger of blood: "Then the congregation shall judge between the slayer and the revenger of blood according to these judgments: And the

\* Numb. xxvii. 1- 9.

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congregation shall deliver the slayer out of the hand of the revenger of blood, and the congregation shall restore him to the city of his refuge, whither he was fled: and he shall abide in it unto the death of the high priest, which was anointed with the holy oil."\* It matters not whether the congregation here spoken of was provincial or national; for, whatever rights vested in the lower assembly, would undoubtedly inhere in the higher.

An instance of the power of the Hebrew commons in criminal questions occurs in the history of Saul, and is too interesting to be passed in silence." Upon a certain occasion, Saul had given an order, forbidding his army to taste food, during a day's encounter with the Philistines. Whoever violated the prohibition was devoted to certain death by the oath of the king. Jonathan, to whose prudence and valor, under God, the victory was entirely owing, ignorant both of the order and the anathema, and worn down with the fatigues of battle, had eaten a little wild honey. Upon his confession of the fault, Saul fiercely exclaims, "God do so to me, and more also; for thou shalt surely die, Jonathan." This is very positive, and seems irreversible. Yet the people step in, and say, "Shall Jonathan die, who hath wrought this great salvation for Israel? God forbid! As Jehovah liveth, there shall not an hair of his head fall to the ground. So the people rescued (literally redeemed) Jonathan." Bishop Patrick truly observes on this place, that the people did not rescue Jonathan by violence or force. Yet his further opinion, and that of the learned Grotius, that the rescue was effected by petition, seems not at

all consistent with the expressions employed. "As Jehovah liveth, there shall not an hair of his head fall to the ground," has very little the sound of an humble request to a master. It is more like the voice of conscious authority, clear and strong in the expression of an undoubted right. Neither is the expression, "redeemed Jonathan," properly

\* Numb. xxxv. 24, 25.

† 1 Sam. xiv. 42 seqq.

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descriptive of an act of mutiny and rebellion. There remains, then, but the conclusion, that it was an exercise of rightful authority, whereby the unconscious offender was pardoned, and the sentence of death reversed, in the general court of Israel. It is thus that Lowman interprets the procedure.\*

Ecclesiastical affairs were, also, to some extent at least, subject to the jurisdiction and control of the Hebrew commons. When David wished to remove the ark to Jerusalem, he would not do so, without a formal vote of the congregation to that effect." On the accession of Solomon to the throne, when Abiathar was deposed from the office of high priest, and Zadok elevated to that dignity, it was "all the congregation," the great assembly of the people, that established the latter in the high-priesthood, and caused him to receive the sacerdotal unction, which constituted a chief part of the inaugural ceremony.‡

In the brief digest of the English constitution, which Montesquieu has given in the sixth chapter of the eleventh book of his Spirit of Laws, he makes the following remark: "Whoever shall read the admirable treatise of Tacitus on the manners of the Germans, will find, that it is



from them the English have borrowed the idea of their political government. This beautiful system was invented first in the woods." On referring to the passage in Tacitus, cited by the learned jurist, it will be found, that the historian says:— "Ordinary affairs were treated in the council of chiefs; great affairs, in the assembly of the people; yet so that those matters, on which it belonged to the people to decide, were debated by the chiefs."§ On this Salvador|| has well observed, that Montesquieu might have traced the idea of the English constitution to a higher source, and made it rest upon bases

\* Civ. Gov. Heb. C. 8.

† 1 Chron. xiii. 2- 4.

‡ 1 Chron. xxix. 20- 22.

§ De Morib. Germ § 15.

|| Hist. des Insts. de Moïse, l. 2. c. 2.

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more sacred in the eyes of modern nations. This beautiful system of government invented in the woods indeed! Its true source is the inspired legislation of Moses. Besides their military chiefs (the council to which Tacitus referred), the Hebrews had a senate of civilians, as well as a house of commons. They recognized three distinct crowns;—the crown of the priests, the crown of the law, and the crown of the king; in other words the sacerdotal or conservative power, the legislative power, and the executive power. Besides, how many of the English have ever read Tacitus? Whereas the bible, found in every house, has exercised the greatest influence over their manners and institutions, and has produced more than one point of resemblance between the ancient people of Israel and the first nation of modern times, which has comprehended the whole power of law, and has founded its polity on the principle, that laws ought to govern, rather than the will

and pleasure of the prince.

## CHAPTER VII.

### The Hebrew Oracle.

THE fact that the original sovereignty of the Hebrew state, though by the free consent and suffrage of the people, was vested in Jehovah, distinguished this government from all others, ever known among men. This circumstance would naturally lead us to look for some peculiarity of organization in the political structure. Nor does the history of the government, contained in the writings of its founder, disappoint such expectation. This organic peculiarity appears in

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the oracle of Jehovah, as an essential part of the civil constitution.

We have already seen,\* that there was a strong theocratic element in the Israelitish constitution; so strong, indeed, that the government has been commonly called a theocracy. In what manner and through what agencies, did this element in the government make itself practically felt? The general answer to this question is:—It was by means of the oracle of Jehovah. With the view of shedding, if possible, some light on this obscure but interesting point, I propose to inquire briefly into the nature and functions of the Hebrew oracle, to institute a comparison between it and the oracles of pagan antiquity, and to vindicate the wisdom and benevolence of such an institution, against the

sneers and sophistries of infidelity, by showing its admirable adaptation to the infant state of the world and the church.

The oracle played a conspicuous and most important part in the establishment and administration of the Jewish theocracy. That incomparable summary of the Mosaic code, and of all moral duty,—the decalogue,—was uttered, amid terrific thunderings and lightnings, from the mysterious symbol of the Divinity, in an articulate voice, which reached every ear, and penetrated every heart, and awed every understanding, of the mighty multitude, that crowded around the base of mount Sinai. So also all the rest of the political, civil, moral, and religious laws of the Hebrews were dictated by the oracle, though they were afterward, as observed by Dr. Spring, in his "Discourses on the Obligations of the World to the Bible," passed upon and adopted by the legal assemblies of the nation. The oracle, in the form of the cloudy pillar, regulated the motions of the Israelitish armies: "For when the cloud was taken up from the tabernacle, the children of Israel journeyed; and when the cloud rested, there the children of Israel pitched their tents; at the command of

\* B. 2, C. 2.

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Jehovah they journeyed, at the command of Jehovah they pitched."\* How far the oracle directed the military affairs of the Hebrews, plainly appears in the history of the Canaanitish wars, and particularly in the story of the siege and capture of Jericho.† In the earlier periods of the commonwealth, the oracle was constantly appealed to on questions of civil and ecclesiastical law, in settling princi-

ples of state policy, and generally in affairs of moment, appertaining to the public administration. "In the time of Moses," observes Michaelis,‡ "the oracle was unquestionably very conspicuous. God himself gave laws to the Israelites; decided difficult points of justice; was constantly visible in the pillar of cloud and fire; and inflicted punishments, not according to the secret procedure of providence, but in the most manifest manner." The constitution of the Hebrew judges, both higher and lower, the election of civil rulers, the cognizance of many causes, some in the first instance, and others on appeal, were branches of the sovereignty of Jehovah, as king of Israel. The use of the oracle in deciding difficult cases in law, is the more worthy of note, as it serves to explain the constitution with respect to appeals. It was thus that the oracle decided the question, how persons defiled by a dead body should keep the passover.§ Thus also the oracle determined the question of female succession, in the case of the daughters of Zelophehad.|| And thus it was the oracle, again, which declared the punishment of sabbath breaking.¶ Hence it may be seen, that the last resort both in civil and criminal cases, especially when new and difficult questions were involved, was in the oracle, and not in the opinion of the high priest alone, nor of the judge alone, nor of both conjointly with the senate and congregation, unless they were fully agreed. If a difficulty arose, the last appeal was to the oracle; in whose decision, the high priest did not give his

\* Numb. ix. 17, 18.

† Josh. vi.

‡ Comment. Art. 35

§ Numb. ix. 6- 10.

|| Numb. xxvii. 1- 9.

¶ Numb. xv. 32- 36.

private judgment, but the oracle itself gave final judgment

in the case.\*

The person charged with consulting the oracle, was the high priest. An objector may here ask: "Did not this open the door to corruption? Might not an ambitious pontiff abuse such a trust to unrighteous ends?" This difficulty may be best met by explaining to whom the consultation of the oracle was permitted; the occasions on which it might be consulted; and the probable manner of the consultation.

The oracle could not be interrogated by any mere private individual; not even by the high priest himself, in his personal capacity. This was permitted only to the chief magistrate, or other high functionary of the government. The occasions, on which the advice of the oracle could be asked, must be of a public nature. The matter of consultation must relate to a question of public policy, of public morals, or of religious faith. Neither could the consultation take place in a clandestine way. The person, proposing the question to the high priest, remained with him during the ceremony. Josephus affirms, that any person who chose might be present on such occasions.† This would be an effectual guard against collusion, and an ample guarantee for the fairness of the transaction. The office of the high priest, in this particular, was that of a mediator, or middle man. He was herein simply the channel of communication between the Hebrew state and its Divine head. It is remarkable, that there is not an instance on record, in the Jewish annals of a high priest, who abused this trust to unworthy objects.

The opinion of learned and judicious authors, as to the manner of taking the sense of the oracle, is this: The high

\* See Lowm. on Civ. Gov. Heb. c. 11.

† See in confirmation of these views Numb. xxvii. 21, and Prideaux's Connex. vol. 1, p. 155 seqq. with the authorities cited by him. Also Josephus Antiq. 1. 3, c. 10.

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priest clothed in his pontifical garments, and having on the breastplate of judgment, in which were the mysterious urim and thummim, symbolical of the clearness and fullness of the oracular responses, presented himself before the veil of the tabernacle, over against the mercy seat,—the immediate residence of the Divine presence. The magistrate, who came to consult the oracle, stood directly behind him, and propounded the question, which was repeated by the priest. The answer was returned in audible voice, in terms explicit, direct, and unambiguous. This explains the reason why the holy of holies, where the mercy seat stood, is so often called the oracle. It was because from thence, God returned answers to those, who came to ask counsel of him, on behalf of the public conscience, or the public administration.

That the responses were returned in an articulate voice, seems probable from several expressions of holy writ. When the ten commandments were given on Sinai, it is said, that " God SPAKE all these words."\* In regard to the subsequent laws, it is declared that "Jehovah SPAKE unto Moses, saying."† When Moses went into the tabernacle to learn the divine will, it is recorded of him that "he heard the voice of one speaking to him from off the mercy seat.‡ Similar forms of expression are used in reference to the like occasions in after ages, from all which the conclusion seems warranted, that the responses of the Hebrew oracle were rendered in an audible voice, and without secrecy,

craft, or ambiguity of any kind. §

I have said above, that the person charged with consulting the oracle was the high priest. The observation, however, ought not to be omitted, that there were two ways, in which the oracle expressed its will, in one of which the high priest

\* Exod. xx. 1.      † Exod. passim.      ‡ Numb. vii. 89.

§ Numb. ix. 9.    Judg. i. 1-2. xx. 18, 23, 28.    1 Sam. x. 23; and many other places

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had no share. This was by a voice from the shekinah directly. It was in this way that the ten commandments were given, in which case the oracle was heard by the whole Hebrew nation. In this manner, also, the other civil laws, given at Sinai, were dictated to Moses. What the exact nature of the phenomenon, called the shekinah, was, we cannot with certainty determine. "We can only say, that it appears to have been a concentrated glowing brightness, a preternatural splendor, an effulgent something, which was appropriately expressed by the term glory; but whether, in philosophical strictness, it was material or immaterial, it is probably impossible to determine."

But notwithstanding this, it still remains true, that the ordinary mode of consulting the oracle, was through the high priest, by urim and thummim. It is not material to the illustration of this part of the Israelitish constitution, that we should know precisely what these terms mean. Yet it may gratify the reader to be informed of the several opinions, entertained by the learned on this point. All that the scripture says concerning urim and thummim, is, that they were something put by Moses into the breast-plate of the

high priest. The breast-plate was a piece of cloth doubled, of a span square, in which were twelve precious stones, set in sockets of gold, and having the names of the twelve tribes of Israel engraved on them. In this, then, the urim and thummim were placed. Four principal opinions have obtained as to what they were. The first is that they were two small images, which, enclosed within the fold of the breastplate, gave out the oracular answers. This is the idea of Philo Judaeus, in which he has been followed by later writers. But it is too heathenish a conceit to be for a moment entertained. It has been well characterized as "a Talmudical camel, which no one in his wits can ever swallow." A second opinion is, that the urim and thummim consisted in a peculiar radiance or shining light, with which certain of the letters, engraved on

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the breast-plate, were invested, when a question had been put; so that these luminous characters, being properly arranged, gave the answer to the inquiry. This was the notion of Josephus. Dr. Prideaux has triumphantly refuted it; but his answer is too long to be inserted here. A third opinion is that of Michaelis, in which he is followed by Jahn. These writers think, that the urim and thummim were simply a sacred box. They suppose it probable, that three stones were used, one of them marked with an affirmative; a second, with a negative; and the third, blank;—and that Moses commanded these to be kept within the doubling of the breast-plate of the priest. This of course would require the question always to be put in such a way, that it could be answered with a simple yes or no. But there are various responses in the scriptures, inconsistent with the truth of this theory; especially that contained in 2



Sam. 5:23, 24, where explicit and detailed directions are given. The fourth opinion is that of Prideaux, who thinks that by urim and thummim we are not to understand any thing visible and corporeal, but only a divine virtue and power, given to the breast-plate in consecration, of obtaining oracular answers from God, whenever counsel was asked of him by the high priest, in the prescribed manner. Amid this conflict of opinion, one thing seems sufficiently evident, that the answers were rendered in an audible voice, and that the breast-plate, bearing the names of the twelve tribes, invested the high priest with his true representative character, and thus enabled him successfully to ask counsel of God.\*

In comparing the Hebrew oracle with the oracles of paganism, my remarks will embrace the period of their respective institution; the times, occasions, and conditions of consulting

\* See on this subject Lowm. on Civ. Gov. Heb. c. 11; Prideaux's Connex. Vol. 1. pp. 155-160; Mich. Comment. Art. 52; Jahn's Archaeol. Art. 369 Smith's Heb. Peop. p. 533; and Calmet's Dict. Art. Urim and Thummim

them; the machinery of consultation; and the nature of the responses uttered by each.

Infidel writers have represented the Hebrew oracle as a mere imitation of those of pagan institution; a graft from one system of imposture, into another but little better. Morgan says, that "while the Jews were in Egypt, they had been dazzled by the infallible declarations of Jupiter Ammon." Sir Isaac Newton, however, places the birth of Ammon more than 400 years after the Exodus of Israel out of Egypt. These are the words of this illustrious chrono-

gist: "The year before Christ 1002, Sesac reigned in Egypt. He erected temples and oracles to his father in Thebes, Ammonia, and Ethiopia; and thereby caused his father to be worshipped as a god in those countries. This was the original of the worship of Jupiter Ammon, and the first mention of oracles I meet with in profane history. The Greeks, in their oracles, imitated the Egyptians; for the oracle of Dodona, which was the oldest in Greece, was set up by an Egyptian woman after the example of the oracle at Thebes."\* Thus it appears, according to this high chronological authority, that, instead of the Jewish oracle being an imitation of the pagan oracles the reverse was the fact. The latter drew their original from the former.

The Hebrew oracle could be consulted at all times, when the occasions of the state required; the Grecian, only on particular days of a particular month in the year. It is obvious to remark, what an advantage this gave to the priests of those lying divinities to anticipate the questions to be proposed, and to frame skilful and deceptive replies.

The Hebrew oracle could be consulted only by some high public functionary, and when questions of moment, relating to the government of the republic, demanded resolution. The Grecian oracles refused not their utterance to any persons,

\* Empire of Egypt, p. 207.

nor upon any occasion, provided only that the fee was sufficiently ample to cause them to break silence.

This leads me to remark upon another distinction

between the two institutions. No money was ever received for consulting the Jewish oracle. The offer of it would have been an insult to him, whose voice was heard in its responses. The Grecian oracles were sources of vast revenues to the priests. The wealth of the Delphian oracle exceeded that of the most opulent states and princes. Its treasury blazed with uncounted jewels, and groaned beneath the masses of gold and silver that filled its capacious vaults.

Another point of difference appears in the machinery of consultation, and the character of the responses. Nothing can be more simple than the method of consulting the divine oracle; nothing less ambiguous than its answers. But what endless mystery, and mummery, and cumbrous rites of divination, accompanied the responses of the heathen oracles! These were always so contrived as to be susceptible of a double interpretation. In proof of this, the reader's attention is directed to the response of the Delphian oracle to Croesus, the powerful monarch of the Lydian empire, respecting the issue of his war with Cyrus. Its purport was, that he should overturn a great empire, and that the Persians would not conquer him, till they had a mule for their prince. History has recorded the result. The wily priests had well considered their answer. They knew nothing of the issue. How could they? But they must clutch the treasures of Lydia's richest sovereign. To this end, they must flatter his pride. And they must maintain the credit of their oracle, whichever way fortune might decide the contest. With demoniac cunning did they frame the response to answer all these ends. When the unhappy Lydian, lured to his ruin by their lying flatteries, dared to reproach them with their deception, with insulting scorn they replied:—"Ungrateful fool! you have overturned a

great empire, even that over which  
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you reigned, and your throne and sceptre have been wrested from you by the mule of our oracle, even Cyrus, who, his father being a Persian and his mother a Median, fills the measure of its import." Behold the system! Behold the commentary! Each worthy of the other, and both of that infernal craft and policy, in which they had their origin One hardly knows against whom to feel the greater indignation; whether against the contrivers of such a system of delusion, or the bold blasphemer, who dares to liken it to that oracle of eternal truth, whose immaculate responses were fitly symbolized by a legend, which signifies, "LIGHTS AND PERFECTIONS."

Infidels have indulged in a superabundance of malignant and silly ridicule over this divine oracle; but with their usual want of inquiry and reflection. I admit, that it is an extraordinary institution. I admit, that it is altogether without a parallel in the history of the world. But this is no argument against either the fact or the wisdom of it. No other civil society has ever been formed for precisely the same objects, nor existed under exactly the same circumstances. No other civil polity ever proposed, as its main end, the overthrow of idolatry, the preservation of true religion in the world, and the education of mankind for a more spiritual and universal dispensation of grace. Add to this, that the human race was then, as it were, in its infancy and nonage. It had but few abstract ideas. It was, for the most part, confined in its mental operations to sensible objects. In such a state of things, philosophy itself would teach us to look for just such an institution as the Hebrew oracle. And when we find it making its appearance in the

Jewish church, enlightened reason is prepared to exclaim in the language of revelation, "Oh the depths of the riches both of the wisdom and knowledge of Clod."

The oracle was the institution of all others, adapted to the mental condition, habits, and needs of the Hebrew people.

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It operated as a salutary check to the ignorance and rashness of both rulers and people. By powerfully impressing the imagination through the senses, it supplied the place of a strong, realizing conception of an infinite and omnipresent spirit, which was wanting in that minority and pupilage of the nation. It served to detach their affections and their trust from the pompous and alluring idolatries of their heathen neighbors. This sensible manifestation of the Deity, —the cloud of glory shooting up to mid-heaven in a column of messy splendor, or resting in luminous folds over the mercy-seat in the holy of holies,—is so far from being incredible, that, while scripture affirms its truth, reason and philosophy declare its expediency. The divine oracle with its attendant visible glories,—the ark, the mercy-seat, the cherubim, the luminous cloud, the breast-plate of judgment, with its mystical urim and thummim, and the audible responses of the Deity,—formed a school, designed, with admirable wisdom and condescension, for tutoring the infant intellect and heart of the world, and training them up to a full spiritual maturity and strength. "To pour contempt, therefore, on these extraordinary appearances, as absurd and romantic fables, would be as unphilosophical and as ungrateful, as it would be for a child, when arrived at manhood, to censure and despise those condescending methods' by which parental wisdom

and love had moulded and carried forward his childhood to manly vigor and understanding."\* Let us not be guilty of the folly, the injustice, we may say, of measuring the intellectual and religious wants of a comparatively rude and infant state of society, by those of our own more cultivated, more enlightened, more spiritual, more manly, and christian age of the world. And while we admire the beauties of the dawn, and adore the wisdom and benevolence of those early pencilings of spiritual light, let us rejoice and

\* Tappan's Jewish Antiquities, Lect. 6.

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be grateful, that the full-orbed sun has arisen upon us in all his splendor.

"In the oracle, then," to conclude this chapter in the words of Lowman,\* "we see a considerable part of the Hebrew constitution to direct the councils of the united tribes, the political wisdom of which is seldom remarked in the civil government of that nation. There was a congregation of all Israel, or assembly of the people, that all things might be done with general consent. There was a senate of wise and able persons, to prepare things by previous deliberation and consultation, that things might not be concluded rashly in a popular assembly, before they were maturely considered and examined by men of wisdom and experience. There was a judge to assemble the states-general on proper occasions, to preside in their assemblies, and to command the armies of the united provinces, and to see the national resolutions duly executed. And finally, here was an oracle, which was to be

consulted by the high priest on great occasions, that no rash resolutions of the people, senate, or judge, might be brought into execution, in cases of moment and difficulty; but they were to ask counsel of God, or to obtain the royal assent of Jehovah, as king of Israel, by his oracle. This was a wise provision, to preserve a continual sense in the Hebrew nation of the principal design of their constitution, to keep them from idolatry and to the worship of the one true God, as their immediate protector; and that their security and prosperity depended upon adhering to his counsels and commands.”

\* Civ. Gov. Heb. c. 11.

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## CHAPTER VIII.

The Hebrew Priesthood.

I use the term priesthood here in an enlarged sense. I include, under that designation, the whole tribe of Levi, as possessing a sacerdotal or sacred character. It is of this tribe, that I now propose to treat, in its constitution, its functions, and its revenues. No part of the Mosaic institution has been, either more grossly misunderstood, or more wickedly misrepresented. It is proper, therefore, to examine it, in the relations just indicated.\*

The tribe of Levi had an organization quite different from that of the other tribes. These were settled in distinct provinces, and had each a government of its own. This had

no landed property, did not live together, and was without an independent government. Its members were dispersed through all the territories of Israel; drew their livelihood from the other tribes; and were subject to the government of the province, in which they lived.

How this happened, it is interesting to inquire. On the departure of the Israelites from Egypt, all their first-born males were sanctified to the Lord, and destined to the altar. But

\* On the subject of this chapter, see Lowm. Civ. Gov. Heb. c. 6; Cunaeus de Repub. Hebr. 1. 2. c. 1; Mich. Comment. Art. 52; Jahn's Heb. Com. b. 2. §12; Salv. Inst. de Moise, l. 2. c. 1. and l. 3. c. 3; Fleury, Manners of the Israelites, Pt. 2. c. 22, and Pt. 4. c. 5; Lewis's Antiq. Heb. Rep. b. 2; and Harrington's Commonwealth of Israel, b. 2. c. 2.

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the difficulty of obtaining from each family its first-born son, the difficulty of detaching them from their private interests, as citizens of such a tribe or such a town, rendered this mode impracticable. Moses, therefore, without in the least changing the original principle, substituted, for this service, the tribe of Levi, in place of all the first-born. But why was this tribe chosen? And, of all its members, why did Aaron and his sons obtain the priesthood? Two circumstances dictated the preference of the tribe of Levi, the smallness of its numbers and the zeal which it had displayed in punishing the Israelites for their idolatry in the matter of the golden calf. The talent, eloquence, and eminent public services of Aaron, which had already won the admiration and gratitude of his countrymen, pointed him out as the person most worthy of being raised to the second dignity in the state.



It is remarkable, and deserves attention, as showing the democratic character of this government, that the tribe of Levi, though designated by Jehovah to the service of the temple, received its legal institution from the Hebrew people, as represented in the states-general of Israel. In the first instance, Moses, with the senate and the congregation, consecrated the high priest and his associates, thus evincing, that it belonged to the general diet to choose the chief pontiff from among the priests most distinguished for their ability and merit and to establish him in his charge.\* Afterwards, the whole assembly of the children of Israel was convoked to induct the Levitical order into their office. The people, by their representatives, laid their hands upon the Levites, and the high priest consecrated them in the name of the children of Israel, as an offering freely made by them to Jehovah their king.†

From the above detail it appears, that the designation and institution of the high priest belonged, not to the council of priests, but to the senate, and must receive the confirmation

\* Levit. viii. 2- 5.

† Numb. viii. 5- 22.

of the people through their deputies. But this will still more clearly appear from some examples in the Israelitish history. Aaron had four sons. Two of them died without issue. Of the other two, Eleazar obtained the high priesthood.\* But this dignity was not necessarily hereditary in his family, for, under the judges, it passed into the family of his brother. As to the motive for this change, and the manner in which it was made, the bible is silent. But it informs us distinctly of the circumstances, which restored the dignity to the family of Eleazar. Abiathar, having taken

part against Solomon, was deposed, and Zadoc elevated to the pontificate in his place. By whom was this done? It was the congregation of Israel, that chose, anointed, and established Zadoc in this office.† Josephus cannot be accused of partiality to democratic ideas, and still less of depreciating the rights of the priests; yet he admits, that this dignity was, and of right ought to be, conferred by the people. When the nephew of the high priest Onias publicly reproaches his uncle with his conduct, he tells him, that it is strange that, having been elevated by the people to the honor of the high-priesthood, he should have so little concern for the welfare of his country.‡ It was the people, who gave the pontificate to Judas Maccabeus.§ It was the people, again, who conferred the same dignity upon his brother Sirnon.|| In short, the great principle of the ancient Hebrews, in which we recognize the germ of the modern idea of the three powers, was, that there were three crowns in Israel, viz. the crown of royalty, the crown of the priesthood, and the crown of the law. The first was bestowed upon David and his descendants; the second was given to Aaron and his sons; but the third, which was superior to both the others, was the inheritance of all Israel. The king, the priest, the judge, all the magistracies, were the creatures of the law; and the law was enacted by

\* Numb. xx. 26.            † 1 Chr. xxix. 22.

§ Antiq. 1. 12. c. 10.    || 1 Macc. xiv. 35.

+ Antiq. 1.12. c. 4

the people. The constitution, in its parts, was pervaded with the democratic spirit.

I pass now to the inquiry concerning the functions of the sacerdotal tribe. Morgan and other skeptical writers have

wished to discover in the Levites a government of priests, intent solely on the enjoyment of sovereign power, and the exorbitant enrichment of their own order. But this idea is without foundation, and against truth, being wholly repugnant to the genius and scope of the institution.

The Levites were not a mere spirituality. Certainly they were the ministers of religion, and charged with all the functions appertaining to the public worship of Jehovah. But so close was the relation between the law and the religion of the Hebrews, that all ecclesiastical persons were at the same time political persons. The entire tribe of Levi was set apart to God, the king of this commonwealth. Politically speaking, they were Jehovah's ministers of state. Hence this tribe, as constituted by Moses, was not only a priesthood, appointed to the service of the altar, but also a true temporal magistracy, having important and vital civil relations. The burden of government was, in great measure, laid upon its shoulders. Besides performing the ceremonies of public worship, it was destined to preserve in its integrity, and to interpret in the seat of justice, the text of the fundamental laws; to teach these laws to all Israel; to inspire the people with a love for them; to oppose all its own authority and influence against any and every attempt to overthrow them; and to bind firmly together all the parts of the body politic.

Let the reader transport himself, in imagination, to the age when Moses lived; let him look at the circumstances, in which he found himself; let him consider the difficulties to be overcome by him;—and this institution will readily become its own interpreter.

In the midst of men ignorant, debased by slavery, and prone to superstition; in the midst of twelve distinct republics

governed by their own assemblies, senates, and magistrates, Moses felt deeply the necessity of some means, both of elevating the people and of uniting in close and strong bonds all these different parts of the body-politic, — some means, which would continually real their regards to the same end, and prevent the evils, to which federative republics are so liable, where the individual interests of the several members are apt to overpower and bear down the general interest and welfare. To obtain this agency, Moses gave to the tribe of Levi the particular organization, under which we find it. He distributed it throughout all the other twelve tribes, and assigned to it certain specific duties. The high priest, as president of the tribe and supreme interpreter of the text of the law, had his permanent residence at the capital of the nation. Thus the centre of the particular system of conservatism and union corresponded with the centre of the republic itself. From this centre, the system spread itself out to the utmost extremities of the nation. Every where its influence was exerted to inspire a love of law and order; to promote peace; to cement the bonds of social and political union; to insure a constantly progressive civilization; in a word, to place continually before the eyes of all their countrymen that law, to which their own individual interest and happiness were indissolubly united.

Let us look at another difficulty, which met the Jewish lawgiver in the framing of his constitution, and particularly in the organization of this magistracy. The individuals to compose it must be taken from among men, who, instead of watching over the preservation of the text of the law, would quite as likely hasten to change it according to their own caprices, and, instead of teaching it to others,

would themselves, perhaps, tear and lacerate its provisions, beyond the possibility of recovery. To parry this danger, and at the same time to establish the institution upon natural guaranties, Moses had recourse to the power of private interest. By

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making the functions of the Levites hereditary, he was enabled to unite their essential interests to those of the other tribes, by a combination, which would; as it were, compel them to fulfil the objects of their charge. He excluded them from all inheritance in the soil of Israel, and made them wholly dependent, in their private interests, upon the rest of the people. Thus the Levite would be led to attach himself to the law, on which his own livelihood depended. He would seek the peace and welfare of the state, because they were the necessary conditions of his own. Self-interest would prompt him to respect the law, in order that others might respect it. Self-interest would lead him to publish it, that the precepts which consecrated his own right, might not be forgotten. Self-interest, in fine, would cause him to watch over its entire execution,—thus making of this tribe, a true and powerful instrument of conservatism.

But while the tribe of Levi, as it came from the hand of Moses, constituted a true civil magistracy, it was far from being, as Morgan would have us believe, the tyrant of the state. No; the state had but one master under the constitution of Moses, and that was the law. To this the sons of Levi were as much bound to submit, as the other citizens. "Lex major sacerdotio,"—the law is greater than the priesthood,—was the principle of the Hebrew polity. How vast, how radical, herein, the difference between the

priesthood of Egypt and the priesthood of Israel! The former made the laws themselves, changed them at will, and concealed the books in which they were written from all profane eyes. The latter were simply charged with preserving the laws intact, with keeping them constantly exposed to the eyes of the people, and with teaching them all to all exactly.

If Moses, as is alleged, had really intended to form a government of priests, clothed with absolute powers, would he, being of a sane mind, have pursued the course that he did? Would he have begun, by stripping the priests of the

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But it is time to look at the institution of the prophetic office, as it is related in the Hebrew history. The record is contained in Deut. 18: 9- 22. I cite the passage in a somewhat abbreviated form, retaining, however, all the material parts of it. "When thou comest into the land which Jehovah, thy God, giveth thee, thou shalt not learn to do after the abominations of those nations. There shall not be found among you any \* \* \* \* that useth divination, or an observer of times, or an enchanter, or a witch, or a charmer, or a consulter with familiar spirits, or a wizard, or a necromancer. \* \* \* \* Jehovah, thy God, will raise up unto thee a prophet from the midst of thee, of thy brethren, like unto me; unto him ye shall hearken. \* \* \* \* But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak, or that shall speak in the name of other gods, even that prophet shall die. \* \* \* When a prophet speaketh in the name of Jehovah, if the thing follow not, nor come to pass, that is the thing which Jehovah hath not spoken, but the prophet hath spoken it presumptuously: thou shalt not be afraid of him."

On this passage I offer the following observations.

1. At the time when this law was given, it was the custom of mankind to pry into future events. No propensity was stronger or more general than this; and religion was universally regarded as the means of gratifying this curiosity. Indeed, it was looked upon as a chief service, which religion owed to her votaries, to give: them information concerning the future. The nations, by whom the Hebrews were surrounded, had their various ways of peering into futurity, some of which are enumerated in this law. If no means had been provided, whereby the Israelites could foreknow things to come, it would have been very difficult, considering the prying curiosity of those early ages, to keep them from despising their own religion, and resorting to the divinations of

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his brethren, nor knew his own children, and shall teach Jacob thy judgments, and Israel thy law,"—must undoubtedly be meant of teaching these laws in the seat of judgment; inasmuch as the expressions employed refer to that impartiality, which is so essential an attribute of a good judge.

The Levites were also the literati of all the faculties. They were by birth obliged to devote themselves to the sciences. They formed a sort of literary aristocracy, whose influence was intended to counteract the hasty measures, likely to result from the strongly democratic character of the government. They acted as physicians, as teachers, as transcribers of books, as writers of contracts and other law papers, as chroniclers and historians, as astronomers, and

as mathematicians employed in the service of the state.

The tribe of Levi, then, comprehended the learned of all names; the sages and professors of law and jurisprudence; of medicine and physiology, of the physical and mathematical sciences; in short, of all the so called liberal arts and sciences, the possession and application of which constitute the civilization of a country. It was to be the chief instrument of a continuing and progressive mental, moral, and religious culture of the people. Its business was to produce, preserve, and perfect all the necessary sources and conditions of national civilization; to form and train up the people of the country to be obedient, free, useful citizens and patriots, living to the benefit of the state, and prepared to die for its defence.

Such, in a political point of view, were the noble functions, such the strongly conservative character of the sacerdotal order, under the Mosaic constitution. Yet the Hebrew priesthood was far from having obtained a range of powers, equal in extent and magnitude to that embodied in the college of Roman pontiffs. Within the jurisdiction of this latter body were included, besides what belonged to religious

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affairs, adoptions, marriages, funerals, wills, oaths, consecrations, the care of the public annals, the arrangement of the calendar, and, in concurrence with the jurisconsults, the determination of the rules and forms of judicial procedure.\*

The revenues of the tribe of Levi next claim our attention.† These were undoubtedly liberal; but they have been



greatly overrated and overstated by men, who would neither weigh the advantages they gave up in return, nor take the trouble to inform themselves of the real nature, extent, and value of their services to the state. Morgan, in particular, has indulged in the wildest and most extravagant calculations, and, as Michaelis says, has called falsehood to his aid, with a view to exaggerate the amount of the already too great income of his supposed spirituality. What, then, was the provision, which the law made for the priests and Levites, as near as we can ascertain it from the history? The tribe of Levi, at the time of the enumeration in the wilderness, contained twenty-two thousand males, or, probably about twelve thousand arrived at adult age. The other tribes numbered six hundred thousand, capable of bearing arms. Consequently, the Levites constituted about a fiftieth part of the whole nation. Besides cities to dwell in, this tribe was to receive a tenth of all the produce of the land, both of fruit and cattle. From this it would appear, that the income of each individual Levite was equal to the average income of five other Israelites. But if we should conclude from hence, that this was the actual proportion, we should deceive ourselves.

A variety of circumstances tended to diminish the tithe accorded to the Levites. 1. They were themselves obliged to

\* Terrasson, *Hist. de la Jurispr. Rom.* Berryat-Saint-Prix, *Hist. du Droit Rom.* cited by Salv. 1. 2, c. 1.

† I make a general reference here to the passages, which relate to this subject, viz. Numb. xviii.; Lev. ii. vii. and xxvii. 30-33: Exod. xxiii. 19: Deut. xxvi. 2-10; Exod. xiii. 13, and xxx. 11 seqq. Lev. xxiii. 19, 20, Deut. xviii. 4: Exod. iv. 20.

hand over a tenth of it to the priests. 2. The whole and of

Israel was not tithable; no woodlands, no timber, paid any tithe at all. 3. Even the cattle, which constituted an important, if not indeed the most important part of the Israelitish husbandry, paid only a tithe of the young. When the tenth lamb, calf, kid, &c. were paid as tithe, the remainder of the flock and the herd paid nothing more, in wool, milk, butter,

or flesh. Hence it is plain, that the whole country of the Hebrews by no means paid a tenth of its produce to the Levites. The greater part of the soil, indeed, as all the woodlands and pasture grounds, either paid nothing at all, or so slight a percentage, as to be really of little account. 4. The rendition of the tithes was left entirely to the conscience and the loyalty of each individual Israelite. No compulsory process could be instituted to compel a payment of them; neither did the priests or the magistrates have any superintendence or oversight of the matter. It will readily be imagined, that the law must have been often but partially complied with, and sometimes wholly eluded. That this was actually the case, appears from a command issued by king Hezekiah,\* and from the censures addressed by the prophets to the Hebrew people." 5. If one or more of the tribes abandoned themselves to idolatry, the Levites lost the revenues accruing to them from such tribes. This undoubtedly often happened. The condition of the Levites could not have been one of much prosperity or abundance, at the time of the idolatry of Micah when one of them, belonging to the tribe of Judah, was obliged to go about the country, seeking for some employment, and was glad to find it, even in the service of an idolatrous Israelite, on condition of receiving his food, one suit of clothes, and ten shekels of silver, (about five dollars) by the year. A memorable example of the loss of revenue to the sacerdotal tribe from religious apostacy, we

have in the history of the reign of Jeroboam, when the Levites driven out

\* 2 Chr. xxxi. 4.

† Jer. viii. 10: Mal. iii. 8.

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from their habitations to make room for idolatrous priests, took refuge in Judah and Jerusalem.\* 6. Another considerable subtraction must be made from the income of the Levites, if an opinion of Joseph Scaliger and Salvador† is well founded. I am not, indeed, convinced, that their idea is correct; neither am I convinced, that it is erroneous. I shall, therefore, state the opinion, which they have advanced, and leave the reader to examine and judge for himself. It is well known, that, besides the tithe for the support of the Levites, the Israelites were required to pay a second tithe, which, however, was not properly of the nature of a tax, since it was to be consumed by the people themselves, at the offering-feasts and other entertainments, in the place which the Lord should choose, to put his name there. To these, besides other friends, they were admonished to invite Levites, widows, orphans, strangers, poor people, and their own servants, thus giving them an occasional season of festivity. There is also, apparently, mention made of a third tithe for every third year, to be expended in similar festive entertainments at home.‡ Three opinions have obtained respecting this last mentioned tithe. One is, that it was really an additional tithe, distinct from the other two. For this notion, however, there does not appear to be any sufficient foundation. The second opinion, which, as it is the more common, seems, I confess, to be the more probable, is, that what seem to be two tithes, were in reality one and the same, and the law in Deut. xiv. 28, 29, is merely a direction, requiring, that so

much of the second tithe as should not have been consumed in offering- feasts at the place of the altar, should, during the third year, be expended in similar entertainments at home. The third opinion is that of Scaliger and Salvador, referred to above.

\* 2 Chr. xi. 13, 14.

† De Decimis, in the Coll. of Sacr. Crit. p. 211, Hist. des Insts. de Moïse, l. 3. C.3.

† Deut. xiv. 28, 29: xxii. 12.

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It is, that every third year the tithe of the Levites did not belong to them exclusively, but was to be shared by them with three other classes of persona, viz. widows, orphans, and strangers. Upon the whole, it is manifest, that the income of a Levite must have fallen very far below that of five common Israelites.

But it may be suggested, that very important elements have been omitted in making the above estimate. I reply that so far as the Levites proper are concerned, nothing has been excluded. The priests enjoyed other revenues, to which I am now going to turn my attention. In the first place, they had a tenth of the tithe of the Levites. Then there were the first fruits of the earth; the firstlings of cattle; the redemption money for the first- born of men; portions of every sacrifice, of which the blood came not into the holy of holies; all things devoted; all matters of vow; the skins of the burnt offerings; and some other minor sources of income.\* I do not mention the half- shekel poll tax, ordered at the numbering of the Israelites in the wilderness, because I am convinced that that was paid but once prior to the captivity, and that the Jews under the

second temple, in making it an annual tribute, went beyond the requisition of the law of Moses.

The items of income, enumerated above, undoubtedly formed a very considerable sum total, which came into the hands of the priests. The question is, did it all belong to them as their private property, which they were at liberty to expend in whatever way they pleased? The thing is impossible; and those who think so, err egregiously. They confound two things, which are distinct in themselves and ought to be carefully distinguished, the minister and the ministry; and they imagine analogies between the Hebrews and other nations, which have no existence, except in their own fancy. The tabernacle first, and the temple afterwards, were not,

\*Numb. xxviii. 5- 32, and Leviticus passim.

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like our churches, wholly: religious in their design and use. On the contrary, they had a character and a purpose eminently political. Public worship was certainly performed there. But there also the states-general held their sessions; and there the national treasure was kept. The Israelite, who consecrated any thing to Jehovah, must not be supposed to have devoted it to the priest in person, but simply to have made use of his ministry to convey it into the sacred treasury, which was no other than the national treasury. Not to the priests themselves, therefore, but to Jehovah, belonged whatever came into their hands. A liberal sum was, doubtless, allowed for the support of their families; but, after this had been taken out, the rest became a part of the public treasure.

This is what I had to say on the constitution, the functions, and the revenues of the sacerdotal tribe among the Hebrews. Three considerations the Levites rendered to the rest of the Israelites for whatever they received from them. 1. The tribe of Levi gave up to the other tribes their whole share of the promised land, except so much as was sufficient to afford them a place of habitation. 2. They parted with the right of an independent government, such as the other tribes enjoyed, and completely sunk their political existence. 3. They gave up themselves to the national service, as ministers of religion, ministers of state, magistrates, teachers of the people, and literati of all the faculties, as explained in a former part of this chapter; services the most laborious, responsible, and useful to the commonwealth. For all this, they received a simple annuity, liberal it may be, but depending solely upon the national faith for its payment, while they divested themselves of all power of re-entry in case of non-payment. Let the benefits surrendered and the services performed be weighed in just balances, and the rent-roll of the tribe of Levi will appear rather below than above the demands of reason and justice.

## CHAPTER IX.

THE right understanding of the prophetic office among the Hebrews will throw much light on the Mosaic constitution, and strikingly evince the popular character of the Israelitish government. On this point, far be it from me to disturb the faith, which we have inherited from our fathers, or to unsettle, in any mind, the received opinion concerning the true divine inspiration of the Hebrew prophets. I receive, with implicit and unquestioning faith, the testimony of Paul, that "all scripture is given by inspiration of God,"\* and the testimony of Peter that "holy men of God spake as they were moved by the Holy Ghost."† Nevertheless, to foretell future events, and to impart religious truth and spiritual lessons, were not the whole duty and office of a prophet, under the constitution of Moses.

Doubtless, the most important functions of the Hebrew prophets were, in the strict sense, religious in their character. The office of the prophets was much more like that of our modern clergymen, than was the office of the priests, who had, in fact, but few points of resemblance to the ministry instituted by Christ.‡ The prophets were the preachers of

\* 2 Tim. iii. 16. † 2 Pet. i. 21.

‡ A single fact is decisive of this, viz. their living in cities by themselves. How could christian pastors discharge their appropriate functions, how could they fulfil the command to watch for souls, if they dwelt in

the ancient church. According to Augustine\* they were the philosophers, divines, instructors, and guides of the Hebrews in piety and virtue. These holy men were the bulwarks of religion against the impiety of princes, the

wickedness of individuals, and every kind of immorality.† But by far the most important part of their commission was to foretell the coming and kingdom of the Messiah, with their attendant circumstances, and, by slow degrees, yet with constantly increasing clearness, to acquaint their countrymen with the approaching change of their economy, and with the nature of the new, more spiritual, and universal dispensation, which was to succeed it.‡

Still, as hinted above, the duties of the prophets were not wholly religious. Their relation to the civil state was not, indeed, fixed by any constitutional provision, or legal enactment. They did not form a component part of the political system.§ They were not a branch of the machinery of government. Yet their authority and influence in affairs of state was by no means inconsiderable. They were, so to speak, the privileged state-moralists, guardians, and popular orators of the republic. Coleridge|| speaks of them as uniting the functions and threefold character of the Roman censors, the tribunes of the people, and the sacred college of augurs. The historian Schlosser¶ says: "We hear, in the prophets, the voice of true patriots, who, standing upon a provision of the law of Moses, spake the truth to the people, to the priests, and to the kings." Horne\*\* speaks of them as possessing great authority in the Israelitish state, and as highly esteemed by the pious sovereigns, who undertook no important affairs

isolated towns, twenty, thirty, or fifty miles apart, instead of living among among their respective flocks ?

\* De Civitat Dei, 1.18. c. 21.

† Horne's Int. Pt. 5. c. 4. ‡ Warburton's Div. Leg. 1. 3. Appendix.

§ J. A. Alexander's Earlier Prophecies of Is. Intr. p. 16.

|| Manual for Statesmen.

¶ Cited by Salv. L 2. c. 3.

\*\* Pt. 5.



without consulting them. Alexander\* represents their influence in the government as very powerful, not indeed by official, formal action, but as special divine messengers, whose authority could not be disputed or resisted by any magistrate, without abjuring the fundamental principles of the theocracy. Milton† compares them to the orators of the Greek democracies. The lines which this sage and learned poet puts into the mouth of our Savior, both from their truth and appositeness, deserve to be cited here.

“Their orators, thou then extoll'st, as those  
 The top of eloquence;—statists, indeed,  
 And lovers of their country, as may seem;  
 But herein to our prophets far beneath,  
 As men divinely taught, and better teaching  
 The solid rules of civil government,  
 In their majestic, unaffected style,  
 Than all the oratory of Greece and Rome.  
 In them is plainest taught and easiest learnt,  
 What makes a nation happy, and keeps it so,  
 What ruins kingdoms and lays cities flat.”

Nobly said, and truthfully too! The prophetic writings abound with the finest lessons of political wisdom. I know of no compositions more worthy of the profound study of statesmen and legislators, than the writings of the Hebrew prophets. In seven verses of his forty-seventh chapter, beginning at the seventh verse, the prophet Isaiah, as Coleridge has observed, revealed the true philosophy of the French revolution of 1789, more than two thousand years before it became a sad, irrevocable truth of history. A collection of political maxims, forming an excellent manual for statesmen, might be culled from the books of the

Hebrew prophets; a collection, which would surprise even diligent students of the scriptures by the number, the variety, the purity, and the deep and comprehensive wisdom of its counsels.

\* Earle. Proph. Is. Int. p. 12.

† Paradise Regained.

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But it is time to look at the institution of the prophetic office, as it is related in the Hebrew history. The record is contained in Deut. 18: 9- 22. I cite the passage in a somewhat abbreviated form, retaining, however, all the material parts of it. "When thou comest into the land which Jehovah, thy God, giveth thee, thou shalt not learn to do after the abominations of those nations. There shall not be found among you any \* \* \* \* that useth divination, or an observer of times, or an enchanter, or a witch, or a charmer, or a consulter with familiar spirits, or a wizard, or a necromancer. \* \* \* \* Jehovah, thy God, will raise up unto thee a prophet from the midst of thee, of thy brethren, like unto me; unto him ye shall hearken. \* \* \* \* But the prophet, which shall presume to speak a word in my name, which I have not commanded him to speak, or that shall speak in the name of other gods, even that prophet shall die. \* \* \* \* When a prophet speaketh in the name of Jehovah, if the thing follow not, nor come to pass, that is the thing which Jehovah hath not spoken, but the prophet hath spoken it presumptuously: thou shalt not be afraid of him."

On this passage I offer the following observations.

1. At the time when this law was given, it was the custom of mankind to pry into future events. No propensity

was stronger or more general than this; and religion was universally regarded as the means of gratifying this curiosity. Indeed, it was looked upon as a chief service, which religion owed to her votaries, to give: them information concerning the future. The nations, by whom the Hebrews were surrounded, had their various ways of peering into futurity, some of which are enumerated in this law. If no means had been provided, whereby the Israelites could foreknow things to come, it would have been very difficult, considering the prying curiosity of those early ages, to keep them from despising their own religion, and resorting to the divinations of

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their idolatrous neighbors. All this is noticed by Origen,\* as a ground of necessity for the establishment of the prophetic office in the Hebrew commonwealth. To keep the Israelites from being carried away by the torrent of superstition, which overflowed and corrupted the nations, true religion was provided with an institution, which should really furnish that knowledge, which false religion pretended to give. A constant succession of true prophets would be a powerful means of weaning God's people from superstitious practices, and of keeping them from consulting diviners to discover what should befall them. And this is precisely what God promises in the passage under consideration.

2. This interpretation, which is the obvious and natural one, confutes that which restricts the words to a prophecy respecting the Messiah. Some interpreters do so restrict their import, because they are expressly applied to our Savior by Peter.† Certainly the passage has reference to Christ, since the apostle affirms it. But who is ignorant of

the fulness of meaning, which often inheres in the words of holy scripture? Bishop Middleton has well expressed the principle, which is applicable here. He observes, that there are many passages in the Old Testament, which are capable of a twofold application; being directly applicable to circumstances then past, or present, or soon to be accomplished; and indirectly to others, which divine providence was about to develop under a future dispensation. Bloomfield,‡ while pointing out the peculiar resemblances between Moses and Christ, admits that, after all, this reference may not have been directly in view, and accordingly, that this may be of the number of those passages, to which bishop Middleton refers, as being capable of a twofold application. Dr. J. A. Alexander§ says, that one of the most plausible interpretations of this passage is, that it contains the promise of a constant

\* Contra Celsum, 1.1. † Acts iii. 22. ‡ In loc.

§ Introduction to Earl. Proph. Is. p. 12.

succession of inspired men, of which succession Christ himself was to be the greatest. The word plausible here is rather ambiguous; but it is evident, that the learned professor inclines to the belief, that the interpretation is just, as well as plausible. This is the decided opinion of Michaelis,\* in which I fully concur. Beyond a doubt, there is a double reference in the passage, viz. to the Messiah, and to the whole line of divinely inspired prophets under the Hebrew theocracy. One of these references did not suit the purpose of Peter, while the other did. He takes that which is in point, without alluding to that which is not. But his use of the one reference is not, upon any just principles of interpretation, exclusive of the other. If a single prophet

only is intended, and that one the Lord Jesus Christ, the context seems to be without meaning, and the whole passage out of joint. The words, then, are to be regarded as a record of the institution of a permanent order of men in the Israelitish commonwealth, of whom Jesus Christ, as he would resemble Moses in being the minister of a new dispensation and in his intimate communication with God, would at the same time be the greatest and the most illustrious.

3. Two tests only of the truth or falsity of the claim to prophetic inspiration are here recognized, viz. first, whether the prophet spake in the name of Jehovah or of false gods; and, secondly, whether or not a future event, foretold by him, happened according to his word. Miracles could not be demanded of him in proof of a divine commission to speak in the name of Jehovah. The power of working wonders did not inhere in his official designation. As long, therefore, as a pretending prophet was not convicted of being a lying prophet, he was to be tolerated, and was to go unpunished, although he should have threatened calamity or even destruction to the state. Whoever prophesied in the name of the true God, must be borne with, until an unfulfilled prediction

\* Comment. Art 36.

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proved him to be an impostor.\* The trial of Jeremiah, as related in the twenty-sixth chapter of his prophecies, casts a strong light upon this subject. He had publicly foretold the destruction of Jerusalem. For this he was seized, and arraigned before the princes, or senate, as worthy of death. He offered no other defence than that the Lord had sent

him to speak as he had, and he was willing to die in attestation of the truth of what he affirmed; only he added, by way of warning, that, if they put him to death, they would surely bring innocent blood upon themselves. He had done nothing, which, by the law of Moses, merited death, or even censure. He had predicted evil to the state, but that was not a crime, unless he had spoken it presumptuously. He might, indeed, be a false prophet, in which case he would be worthy of death; but as yet there was no proof of it. If it was not a crime to be a prophet, it was not a crime to predict calamity, for nations do not always experience good fortune. It was his duty to foretell the truth, just as it had been revealed to him, whether it was agreeable or disagreeable. It is remarkable, that there were prophets among his accusers; how many is not stated, but apparently not a few. The court, after hearing the case, rendered a judgment of acquittal, on the ground both of law and precedent. They aver, in their judgment, that Jeremiah had spoken in the name of Jehovah, as the law required, and that the fact of his foretelling evil cannot be imputed as a crime, since other prophets had done the same without rebuke, of which they cite a memorable instance. And so the case was dismissed, and the accused set at liberty. The history of the procedure is very interesting, and the reader is requested to peruse it for himself.

4. So far as the right of interdiction by man was concerned, this law gave a very broad liberty to the exercise of the prophetic office. Undoubtedly there could be no right,

\* Mich. Comment. Art. 36

in the sight of God, to assume this office, without a true divine commission and a supernatural divine inspiration. But, so far as his fellow-citizens were concerned, every man, whatever his birth, tribe, calling, or fortune might be, could say, "I am a prophet." He could proclaim to the people the consequences of their iniquities, and freely censure the conduct of the magistrates, of the priests, of the senators, of the kings, of all. He could speak, preach, exhort, reprove, and fulminate; and no man had the right to close his mouth. On the contrary, both citizens and rulers were bound to listen to him, when his voice was raised against corruptions and abuses, and in favor of the just and the right.\* There is no need to cite examples of the boldness and energy, with which the prophets reprov'd the sins of all, from the highest to the lowest. Nathan dared to say to David, "Thou art the man."† Isaiah addressed the rulers as rebellious, as companions of thieves, as loving bribes, and as following after rewards.‡ Ezekiel speaks of the princes as resembling wolves ravening for their prey, in their eagerness to shed blood and get dishonest gain.§ Zephaniah represents the princes of Israel as roaring lions, her judges as evening wolves, her prophets as treacherous persons, and her priests as doing violence to the law.|| Malachi charges upon the whole nation the crime of robbing God.¶

5. This liberty, however, was restrained by a severe penalty, to be indicted upon the false prophet. The prophet, who presumed to speak without a commission from God, was to be punished with death. The falsity of his claim to the prophetic inspiration could be evinced by proving, either that he had prophecied in the name of strange gods, or that he had uttered a prediction, which was falsified by

the event. The reader, who would see the justice of so severe a penalty fully vindicated, is referred to articles 252 and 253 of Michaelis's

\* Salv. 1. 2, c. 3.

† 2 Sam. xii. 7.

‡ Is. i. 23.

§ Ezek. xxii. 27.

|| Zeph. iii. 3, 4.

¶ Mal. iii. 8.

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Commentaries on the Laws of Moses. The assumption of the prophetic office without authority was a species of treason in the Israelitish state; and besides this, mischiefs of a fearful magnitude flowed both from the public predictions of false prophets, and from the secret practice of superstitious arts, such as fortune-telling, astrology, and divinations of all sorts.

6. The passage under consideration affords solid ground for belief in the supernatural inspiration of the true prophets of Jehovah. What legislator, not bereft of the last spark of justice and humanity, would punish with death a mere error in judgment? Yet this charge is in effect brought against Moses by those, who represent the Hebrew prophets as nothing more than sagacious men, whose natural perspicacity enabled them to foresee and predict future events; men endowed, in a superior degree, with the faculties of reason, imagination, and genius. Could there be a clearer proof; if not that the prophets were supernaturally inspired, at least that Moses and his countrymen thought so? Unless, indeed, we are willing to suppose, that the lawgiver himself rather deserved the punishment, which he threatened against the violators of his law.

Upon the whole, there can be no doubt, that the prophetic office was designed to be a great and influential element in the Hebrew government. The seventy elders, chosen as assistants to Moses in the valley of Paran, were



divinely inspired men, and spake to the people under the influence of the Holy Spirit. From the very foundation of the state, teachers supernaturally enlightened were appointed to instruct the people in religion, virtue, and law; and, in the darkest periods of the Hebrew history, God left not himself without inspired witnesses to the truth. At length there appeared what have been called schools of the prophets, that is, companies of young men, taught and disciplined under the direction of Samuel and other aged prophets, who succeeded him. Not that the art of prophecy became a branch of Hebrew education. Three principal objects, we may reasonably conjecture, the

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youths, who frequented these schools, had in view,—the improvement of their minds, growth in piety, and knowledge of the Mosaic law. From among the persons thus disciplined and instructed, the prophets were ordinarily, though not uniformly, selected by God, who communicated to them, in addition to the qualifications for the prophetic office thus acquired, the gift of inspiration. It was of the utmost importance, that the prophets should have an ample and accurate acquaintance with the laws of Moses; and it was, on many accounts, better that they should acquire this by their own study, than by immediate inspiration.

It would naturally be expected, that, under a law like that which we have been examining, the prophets, true and pretended, would form a numerous body in the state. And such was undoubtedly the case. Every city had its prophets, who, says Calmet,\* in the public assemblies on the sabbath, at the new moons and in the solemn convocations, preached to the people, and reprov'd the various disorders and abuses, which appeared in the nation. Ezek-

iel has indicated, in a manner extremely elegant and poetical, the duties of a prophet, under the Mosaic economy.† The prophets served as a counterpoise to the influence of the priests, the magistrates, and the senate itself, which rarely omitted, on important occasions, to call for the advice of one or more of the most renowned of these inspired men.

Among such a crowd of popular preachers and orators, it will readily be imagined, that multitudes were mere pretenders; and that there was but a feeble minority of divinely commissioned prophets. The mass spake without divine light and guidance. Profaning the name of Jehovah, and sacrificing the welfare of the state to their private interests, they ignominiously sold both their consciences and their discourses. Every page of the prophetic writings proves this. "Thy

\* Dissert. on the Schools of the Hebrews, § 11

† Ezek. xxxiii. 2, seqq.

prophets," cries Jeremiah, "have seen vain and foolish things for thee; and they have not discovered shine iniquity, to turn away thy captivity." In the same strain, Ezekiel inveighs against the prophets who daubed with untempered mortar, and divined lies; and he speaks of a conspiracy of prophets, who ravened the prey like a roaring lion, and filled their hands with treasure and precious things. But what if some abuses grew out of the prophetic institution? It is better, as Salvador says, to give free course to torrents of vain words, than to arrest a single one, about to be uttered by a true messenger from heaven.

## CHAPTER X.

### Conclusion.

In the foregoing pages, I have offered an analysis of the Hebrew constitution, such as I conceive it to have been, when it came from the hand of the inspired Hebrew law-giver. The constitution contained a provision that, when the Israelites came into the promised land, it should be submitted to the people, and formally accepted by them all. They were to be assembled in an amphitheatre formed by two mountains,—Ebal, a bleak, frowning rock, towering on one side, and Gerizim, springing up covered with verdure and beauty on the other. The one height was a prophetic monument of the prosperity and loveliness, which would follow, the observance of these institutions; the other, of the barrenness and desolation, which a disregard of the constitution would inevitably bring upon the nation. There the tribes, when the proper time came, were ranged in order, and

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listened to its provisions; and there they signified their acceptance of it, by an act of free choice, which was binding on them and their children for ever.\*

The Hebrew constitution, in its substance and its forms, in its letter and its spirit, was eminently republican. The power of the people was great and controlling. This point is clear, even on a superficial examination of the subject. But not only so; it had also important and striking analogies with our own constitution, and with that other free

constitution, from which ours, in its most essential features, was taken; a constitution, which Montesquieu erroneously represents as drawn from the woods of Germany, but which Salvador, and truly without doubt, regards as derived from the Hebrew fountains. Whoever attentively considers the Hebrew and British constitutions, and still more the Hebrew and American constitutions, cannot but be impressed with the resemblance between them. Their fundamental principles are identical; and many of the details of organization are the same or similar. The rights of every person in the Hebrew state, from the head of the nation to the humblest stranger, were accurately defined and carefully guarded. Even Ahab, an unprincipled tyrant, dared not invade the field of a vine-dresser, though the want of it was so keenly felt as to make him refuse his ordinary food; and his still more tyrannical and unprincipled queen, Jezebel, knew no method of compassing the same end, but through the perverted forms of law and justice.† Every man was, in a political sense, on an equality with the most exalted of the nation. The rulers were raised to the dignities which they enjoyed, by the free suffrages of their fellow citizens. The laws, though proposed by God, were approved and enacted by the people, through their representatives, in the states-general of Israel. The Israelites exercised the right of meeting in primary assemblies, of discussing questions of public

\* See Chr. Exam. for Sept. 1838.

† 1 Kings xxi.

policy, and of petitioning their rulers for the redress of grievances. Every Hebrew citizen was eligible to the highest civil dignities, even to that of the royal purple. The whole nation constituted a republic of freemen, equal

originally even in property, equal in political dignity and privilege, equal in their social standing, and equally entitled to the care and protection of the government.

The Hebrew polity was essentially a system of self-government. It was the government of individual independence, municipal independence, and state independence,—subject only to so much of central control, as was necessary to constitute a true nationality, and to provide for the general defence and welfare. Centralization was eminently foreign to its spirit. The local governments loom out under the Mosaic constitution; the central government is proportionably overshadowed. Herein the Hebrew constitution remarkably resembles our own, and as remarkably differs from other ancient polities. All the ancient Asiatic governments, and most of the European, were great centralizers. With them, almost every thing originated and terminated in a centre. The Greek democracies can scarcely be regarded as an exception to this rule; the Roman commonwealth certainly was not.

Public opinion was a powerful element in the Hebrew government. This gave shape and force both to the national and provincial administrations. Let any one read the Hebrew history with this in his mind, and he will see proofs of it in every page. If called upon for a single decisive proof of the strength of the popular will under this constitution, I would select the change in the government from the republican to the regal form. Samuel was against this change. The oracle was against it.\* The council of Moses was against it. The opinion and practice of a long line of illustrious chiefs were against it. It is a reasonable presumption,

\* The oracle did indeed, give its assent; but reluctantly.

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that a strong party of the wisest spirits of the state was against it. Yet the change was made. How and why? The people willed it; the people decreed it; and so it was. What pregnant argument could there be of the authority and energy, with which the collective will of the nation uttered and enforced its resolves? The quiet submission of the whole nation to the will of the majority, after the intense excitement of the struggle, through which it must have passed, reminds me more strongly than any thing else in history, of a presidential election among ourselves, which is ever accompanied with a like convulsion of the public mind, and a like subsequent acquiescence and repose of the defeated party.

It is an admitted fact, that the tendency of all the modern improvements in government is to equalize the conditions of men, and so to bring about that general social intercourse, by which many of the most important principles and habits are formed and fixed, and the masses of society are elevated, humanized, and refined. To secure these great ends, many bloody wars have been waged, and countless treasures expended. But all these struggles and expenditures have not yet, in the particulars just indicated, brought modern society to that point, where Moses fixed his people, in an age, when even the Greeks and the Romans were still savages and barbarians. Privileged classes, enjoying the benefit of milder laws and special exemptions, were unknown to the Mosaic constitution. Neither patent of nobility nor benefit of clergy found any place among its provisions. And civil liberty, according to the notion of it presented in the excellent definitions of

Blackstone, Paley, and other approved writers on public law, that it is no other than natural liberty, so far restrained by human laws (and no farther), as is necessary and expedient for the general advantage of the public; that it is the not being restrained by and law, but what conduces in a greater degree to the public welfare; and that it consists in a freedom from all restraints, except such as established law

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imposes for the good of the community;—liberty, I say, thus regulated by law, with the super added idea, that the restraining laws should be equal to all, was as fully developed and secured by the Hebrew constitution, as by any other known system of government in the world. The great natural rights of personal security, in respect to life, limb, health, and reputation; of personal liberty, in respect to locomotion, residence, education, and the choice of occupation; and of private property, in the free use, enjoyment, and disposal of all acquisitions, without any control or diminution, save by the laws of the land,—were recognized and guarded, in the amplest manner, by the laws and constitution of Moses. And these absolute and paramount rights were protected, and their inviolability maintained, by other subordinate rights:— the right of representation in the congregation of Israel; the right of a speedy and impartial administration of justice through the courts; and the right of petitioning- the public authorities for the redress of wrongs, where other means of establishing the right were inadequate to the purpose. Such were the liberties of a Hebrew citizen; such the barriers, by which they were defended; such the inestimable system of public polity and law, which spread its ample and beneficent protection over the humblest and meanest, as well as the most

exalted and honored member of the commonwealth of Israel.

The two greatest interests of a state, and yet the two interests most difficult to be harmonized,—permanence and progress,—were as wisely provided for and as effectually secured by the Mosaic system of government, as by any other civil constitution in the world: the former, by its regulations respecting the distribution and tenure of landed property; the latter by the three annual assemblages of the nation, whereby there was kept up a continual circulation of ideas between all parts of the country: and both, by the institution of the Levitical order, which was at once conservative

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and progressive; conservative, by its duty to teach, interpret, and maintain the laws; progressive, by its obligation to devote itself to the cultivation of science and letters.

Is it not a fact well worthy to arrest attention, that, in the midst of barbarism and darkness, hearing no sounds but those of violence, and seeing no soil which was not drenched with blood, a legislator should have founded a government on principles of peace, justice, equality, humanity, liberty, and social order, carried out as far as in the freest governments, now existing among men? This would be an inexplicable mystery, on any other theory than that of a supernatural revelation to the lawgiver. The reality of the divine legation of Moses might be rested on this argument alone. And whoever holds to the divinity of his mission, and therefore necessarily believes, that a constitutional and representative democracy is a form of government, stamped with the seal of the divine approbation, while the monarchy was a concession to the folly of the



people, will thence derive a new and forcible argument to cherish and defend the precious charter of our own liberties, since its type and model came originally from the depths of the divine wisdom and goodness.

I have sometimes imagined all the legislators of America gathered into one vast assemblage, and the Jewish lawgiver appearing suddenly in their midst. "Gentlemen," he might say to them, "at length my word is fulfilled. What you boast of doing now, I accomplished, as far as in me lay, in a distant age. I broke the doors of the house of bondage, and proclaimed the principle of universal equality among men. I substituted for castes and privileged classes, a nation of freemen, and for arbitrary and capricious impositions, the reign of law, equal and universal. I preferred peace to war, general competence and happiness to the false glory of arms, substantial blessings to airy nothings. My highest efforts there constantly directed to procure for all the citizens the greatest equality practicable, both of the labors and enjoyments

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of life; for the whole commonwealth of Israel, lands well cultivated, good habitations, rich herds, and a population healthy, Numerous, enlightened, pious, and contented. It is false, what ignorance and irreligion have charged against me, that I held in abhorrence, after the example of Egypt, foreign nations. No other legislator in the world has ever shown to the stranger an equal justice, an equal tenderness, with myself. Nor is this all: I earnestly labored to secure a universal intellectual equality. Far from being jealous of the superiority, which God and the discipline of my faculties had given me, I nourished the animating hope, that all the lights, which I possessed, would one day become the common property of all, even the humblest of

my fellow creatures. LAWS,—not men,—were the rulers of my republic; CONSENT,—not force,—the basis of my government. Conquests, and servitude; magnificent palaces, and servitude; boundless luxury, and servitude; brilliant spectacles, and servitude; a certain amount of science, and still servitude;—behold a brief but true picture of the governments, by which I was surrounded. It is a libel upon my name and memory to charge me with having framed my institutions upon the model of those stupendous systems of fraud and tyranny. By the wisdom of my counsels and the energy of my policy, I overthrew, at a blow, the whole degrading apparatus of political jugglery and priestly despotism. I reduced the speculative ideas of my own and the preceding ages to a single sublime principle of simplicity. I recognized the happiness and well-being of the people, as the one supreme law of political philosophy. By the institutions founded upon this principle, I impressed a new character upon my age and species; I gave a new impulse to man, both in his individual and social energies: I fixed upon my labors the indestructible seal of a divine wisdom and beneficence. Forward, then, gentlemen, without fear or faltering, in the doctrine of Jehovah,—in those great principles of free

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and equal government, which, taught by the Divine Spirit I first promulgated to the world; and to which, after so many ages of tyranny and misgovernment, you have at length returned. Cling to these principles, legislators of a world that had no being when I founded my republic. Give them a broader development, a higher activity; and the civilization the prosperity, the happiness flowing from them, shall outstrip your fondest hopes, and more than realize the

brightest vision of bard or prophet."

Such is the spirit, that speaks to us, of this distant age and clime, in the Mosaic constitution. It is a spirit of faith, hope, charity. There are some, who entertain apprehensions concerning the issue of our political experiment, and who doubt the capacity of the people for self-government. For myself, I have no such fears. My faith in our institutions has been strengthened by my study of the Hebrew constitution. I have seen with surprize and delight, that the essential principles of our constitution are identical with those of a political system, which emanated from a super-human wisdom, and was established by the authority of the supreme ruler of the world. I accept this knowledge as a pledge, that these principles are destined, in the good providence of God, to a universal triumph. Men are capable of governing themselves; such is the decision of the infinite intelligence. Tyranny will every where come to an end; humanity will recover its rights; and the entire race of mankind will exult in the enjoyment of freedom and happiness. Futurity is big with events of momentous import; events, I verily believe, compared with which the grandest and the sublimest, hitherto inscribed upon the rolls of fame, are but as insignificant trifles. But this better future, for which our nature sighs, and to which it is evidently tending, "is not a tree transplanted from paradise, with all its branches in full fruitage. It was not sowed in sunshine. It is not in vernal breezes and gentle rains, that its roots are fixed, and its growth and strength

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insured. With blood was it planted. It is rocked in tempests. Deep scars are on its trunk, and the path of the lightning may be traced among its branches." But, through

storm and darkness, amid blood and carnage, the political redemption of our race holds on its course. Liberty and law, christianity and science, religion and learning are yet to enjoy a universal triumph, to sway a universal sceptre. The day is to come, when human nature, relieved from the pressure imposed upon it by the abuses of ancient dynasties, shall start afresh, with unimpeded and elastic tread, on its destined race of improvement and perfectibility. Thanks be to God for that rainbow of promise, with which the civil polity of Moses has spanned the political heavens!

THE END.