THE

SOCIAL COMPACT,

EXEMPLIFIED

IN THE CONSTITUTION

OF THE COMMONWEALTH OF MASSACHUSETTS;

WITH REMARKS

ON THE THEORIES OF DIVINE RIGHT OF HOBBES AND OF FILMER,
AND THE COUNTER THEORIES OF SIDNEY, LOCKE,
MONTESQUIEU, AND ROUSSEAU,

CONCERNING

THE ORIGIN AND NATURE OF GOVERNMENT:

A LECTURE,

DELIVERED BEFORE THE FRANKLIN LYCEUM,

AT PROVIDENCE, R. I., NOVEMBER 25, 1842.

BY JOHN QUINCY ADAMS.

PROVIDENCE:
KNOWLES AND VOSE, PRINTERS.
1842.

PROVIDENCE, NOVEMBER, 28th, 1842.

Dear Sir—At a meeting of the Franklin Lyceum, held this day, the following resolution was unanimously adopted :

"Voted, That the "Committee on Lectures" be directed to communicate to Hon. John Quincy Adams the thanks of the Lyceum, for the interesting and instructive Lecture delivered by him on the evening of the 25th inst., and to request a copy for publication."

We take pleasure in communicating the above resolution, and in renewing, in this formal manner, the request which, at the suggestion of many of your friends here, we have already made verbally.

We are, with the highest respect, your obedient servants,

THOMAS L. DUNNELL,
WILLIAM M. RODMAN, } Committee.

Hon. JOHN Q. ADAMS.

WASHINGTON, DEC. 10th, 1842.

Gentlemen,—I have received your letter of the 28th of last month, communicating to me the vote of thanks of the Franklin Lyceum, for which I pray the members of the Lyceum to accept my most grateful acknowledgments.

In compliance with your obliging request, and in fulfilment of my promise, I now enclose a copy of the Lecture on the Social Compact, as exemplified in the Constitution of the Commonwealth of Massachusetts. A few passages of the Lecture, as originally written, were omitted in the delivery of it at Providence. As they appear to me essential to the conclusiveness of the argument maintained in the Lecture, I include them in the copy as they stand in the original manuscript ; so marked that they may be omitted or retained, as you may deem most advisable. The argument of the Lecture is, that the social compact, or body politic, founded upon the laws of Nature and of God, physical, moral, and intellectual, necessarily pre-supposes a *permanent* family compact formed by the *will* of the man, and the *consent* of the woman, and that by the same laws of Nature, and of God, in the formation of the Social Compact, the will or vote of every family must be given by its head, the husband and father. That the nuptial contract is formed by the *will* of the man is so emphatically the law of nature, that although I believe there is no country upon earth where it is required by positive statute, and where the female is forbidden to make the first advances, neither is there any country, civilized or savage, that I ever heard of, where the first advances to marriage are made by the woman. Rare, or solitary exceptions there doubtless are, in all countries, but the exceptions are barely sufficient to prove the rule. And this element of the nuptial contract, that its incipient existence must come from the *will* of the man, constitutes its character throughout its continuance. The quotation from "Paradise Lost," presents this characteristic difference in the physical and moral nature of the two sexes in language so glowing, and in imagery so beautiful, that I thought it the best illustration of the principle that could be given. If, however, you prefer to print it precisely as delivered at Providence, you will direct the printer accordingly.

I am, very respectfully, gentlemen, your humble and obedient servant,

JOHN QUINCY ADAMS.

THOMAS L. DUNNELL,
and
WILLIAM M. RODMAN, } Committee on Lectures of the Franklin Lyceum, Providence, R. I.

THE LECTURE.

LADIES AND GENTLEMEN:

The Lecture which I propose to submit to your consideration this evening, is an examination of the principles of Democracy, of Aristocracy, and of Universal Suffrage, as exemplified in a historical review of the present Constitution of the Commonwealth of Massachusetts; with some notice of the origin of human government, as maintained by the theories of divine right of Hobbes, and of Sir Robert Filmer, on one side, and by Sidney and Locke, Montesquieu and Rousseau, on the other.

The Lecture was written more than two years since, without the slightest reference to the transactions which have since occurred in this State.—I mention this, because it might otherwise be supposed that in the delivery of the Lecture here, there is some officious interference, on my part, in the domestic concerns and dissensions of a sister State, which is far, very far, from my intention. If then there should be perceived any apparent allusion to topics which have recently been much controverted in this State, the auditory will please to consider it as entirely accidental. In the Constitution of Massachusetts as originally prepared and adopted, and as subsequently amended at sundry times and in divers manners, the people, the whole people of that Commonwealth, have always spoken for themselves. How they have so done, I propose in histo-

rical narrative to show ; and if they have set the example of the gradual enlargement of the right of suffrage quietly, peaceably, without even disturbing the harmony of the community, but by the progress of public opinion ripening into universal assent, may I not humbly hope that the force of this example may operate as a lesson of wisdom, of social harmony, and of peace, beyond their territorial boundaries, and combine the most enlarged liberty for the future, with the most cordial acquiescence in the past.

In the preamble to the Constitution of the Commonwealth of Massachusetts, it is declared "that the body politic is formed by a voluntary association of individuals. It is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good."

And by the same preamble the people of Massachusetts farther declared as follows:—"We therefore, the People of Massachusetts, acknowledging with grateful hearts the goodness of the great Legislator of the Universe in affording us, in the course of his providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new Constitution of civil government for ourselves and posterity."

A voluntary association—a social compact—by which the whole people covenants with each citizen, and each citizen with the whole people. It would seem that human language could not be more clear and explicit, and yet there are several very important points to be settled, before we can come to a mutual understanding of its import.

For example; it is said that the body politic is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people. What are we to understand by the whole people?

The whole people of any given territory consists of all the human beings abiding upon it, men, women and children, born or in the womb, natives or foreigners, bond or free; but the word *people* itself, presupposes association—for if you suppose a million of individuals congregated on one spot of earth ten miles square, they would not constitute a people, but by association and compact, and that association and compact must embrace them *all*.

But the whole people are not capable of contracting. The children unborn or under the age of reason, are incapable of forming any covenant. The women cannot contract separately from the men. There is a family compact preceding that which constitutes the body politic—the most sacred and solemn of all the covenants that man or woman is capable of contracting. It is only as a consequence of that compact that individuals exist, who constitute the body politic. The union of the sexes, founded in the law of nature, necessarily precedes the social compact which constitutes the body politic, which is *an association of families*.

Thus by the law of nature, the physical effect and the moral obligations of the two parties to the covenant of union, are widely different. In all the stages of human society, the marriage contract confines the woman exclusively to one man; but it is believed that Christianity alone, of all human institutions, confines the man exclusively to one woman. This is one of the most excellent purifications of the law of nature, by the precepts of Christianity—entirely and exclusively favorable to the female sex, and of itself affording in the social compact an ample equivalent for the prerogative which necessarily devolves upon the man of *contracting* for her as well as for himself, and for their children under the age of ability to provide for themselves.

The woman therefore can have no direct agency in the formation of the social compact which constitutes the

body politic. Nor had the women of Massachusetts any direct agency in forming the Constitution of the Commonwealth. Nor are foreigners, transiently residing within the territory where the social compact is formed, parties to the body politic, albeit they are a portion of the whole people. Still less are slaves constituent parties to that covenant of the whole people with each citizen and each citizen with the whole people, albeit where slavery is tolerated they constitute an unhappy portion of the whole people subject to the government.

It has indeed been repeatedly and most righteously adjudicated, by the highest judicial tribunal of Massachusetts, that slavery cannot exist within the borders of the commonwealth, under the present Constitution. There is and can be no social compact between the master and the slave.

Thus when in the Constitution of the Commonwealth of Massachusetts, it is said that the body politic is formed by a social compact in which the *whole people* covenants with each citizen and each citizen with the *whole people*, the words *whole people* in the first part of the sentence, have not the same meaning as they have in the second. In the first part they mean that portion of the people *capable* of contracting for the whole and with the whole—in the second, they mean the sum total of human beings bound by and included in the compact.

The Constitution of the State of Massachusetts was formed for themselves and their *posterity*, by "the people inhabiting the territory formerly called the Province of Massachusetts Bay. By the law of nature, paramount to all human compacts, that people was never for two days, for two hours, for two minutes in succession composed of the same individuals. Every minute of time, one individual passed from the number of the living to the bourne whence no traveller returns, and other individuals were ushered into life. The whole people therefore who form-

ed the covenant, constituted not a tenth, perhaps not a hundredth part of the whole people bound by their obligations and entitled to their rights.

The covenants of the social compact must then, by the laws of nature, be made by a portion of the people for the whole—by that portion of the people capable of contracting for the whole—and as the compact is formed by a *voluntary* association, not only the capacity but the *will* to contract, must concur to form the whole people who covenant with each citizen.

The portion of the people inhabiting the territory formerly called the Province of Massachusetts Bay, who gave their personal assent to the Constitution of the Commonwealth, was not one tenth of the whole population then inhabiting the territory.

And in the formation of any social compact by the *People*, we may assume it as a first principle that the individuals *covenanting* for the whole can never amount to more than one in five of the whole. These remarks may assist us in the solution of certain questions, which have recently been and are much controverted, not only within this Commonwealth, but throughout the Union, and indeed it may be said, throughout the civilized world.

Let us for example examine the meaning of the words Democracy and Aristocracy, with reference to the Constitution of this Commonwealth. The original meaning of the word Democracy, was, the government of the people. It is compounded of two Greek words—"Demos," people, and "Kratos," government. The word Aristocracy, was alike compounded of the words "Aristos," best, and "Kratos," government.—The government of the best,—not the meaning at this day affixed to the word.

Of both these kinds of government, the earliest examples are found in the history of the Grecian republics, from whose language the names are derived. Athens was the

model of the Democratic, and Sparta, of the Aristocratic republic.

The Bill of Rights of the Constitution of Massachusetts, declares:

1. That all power resides *originally* in the *people*, and is derived from them.

2. That government is instituted for the common good; for the protection, safety, prosperity and happiness of *the people*.

3. That all elections ought to be free: and that all the inhabitants of this Commonwealth, having SUCH QUALIFICATIONS as they shall establish by their frame of government, have an equal right to elect officers, and to be elected for public employments.

4. That each individual of the society has *a right* to be protected by it, in the enjoyment of his life, liberty, and property, according to standing laws.

It is remarkable that neither the Constitution of the Commonwealth, nor the Constitution of the United States, nor the Declaration of Independence, though all issued in the name of the people, contains either of the words Democracy or Aristocracy.

Observe also that the institution of government is one thing, and the government itself is another. The Constitution of the Commonwealth was ordained by *the people*—that is to say, by more than two thirds of about fifteen thousand persons who voted upon it out of a population of three hundred and fifty thousand, or one vote for every thirty-five souls.

Under this Constitution, the government of the Commonwealth of Massachusetts is a government of the *people*,—by their representatives. Is it a democracy? certainly not in the acceptation of the word as it was originally understood—certainly not as Athens was a democracy. But in whatever sense you use the word democracy, for the institution or administration of government,

the people exercising power *are* and can be only a portion, and a very small portion of the whole people over whom power is exercised.

Government is the exercise of power directing or controlling the will of human beings. This power may be exercised by every individual over him or herself, or it may be exercised by one or more individuals over others.

Of all governments upon earth, the most important, and perhaps the most difficult, is self government—and as self love and social are the same, if this self government were possessed in perfection by the whole human race, no other government would be needed or could exist.

But perfect self government is not allotted to man upon earth. There is a law of nature, or in more proper words, a law of God, the author of nature, subjected to which the human being comes into life, and from the power of which he can be released only by death. By this law of God, the human being comes into life, the child of two parents, male and female, both of one species, but of different constitutions, adapted to each other for union, but subject to different modifications of the law of nature, and of course to different applications of the principle of self government.

The child comes into life utterly incapable, not only of self government, but of self preservation. Left to itself, it must perish at the hour of its birth. For its preservation, the first want of its nature is food, and the same nature which has given the appetite, points for its supply to the fountain of life, the maternal breast.

We must not forget that the child comes into life, produced by the union of two parents many months before; that each of these parents, many years before, had been by a similar union of their parents, brought into life in the same manner, and that thus in the search for the laws of self government we must ascend to one couple of human beings, created, not born, the primitive parents of the

whole human race. The holy scriptures inform us historically that such was the fact, and if there be in this auditory, a philosopher who disbelieves the scriptural account of the creation, and yet seeks for the origin and sources of human government and human freedom, let him give us *his* account of the origin and present existence of the human race.

But whatever that origin may have been, to the continued existence of the race through successive generations, four individuals, two of each sex, are indispensable—bearing to each other the respective relations of husband and wife, father and mother—son and daughter, brother and sister.

Man is therefore by the law of nature's God, a *social* being. He cannot exist alone. He cannot be born, but by the union of two individuals of his own species and of different sex. He cannot continue the species but by the co-operation of another individual of a sex different from his own.

The nuptial union then is by the law of nature, the foundation of human society, and it necessarily superinduces to the law of self government, the law of family government—for each of these four individuals has selfish passions which must be governed, some of which are in harmony with those of the other three, and others discordant with those of one or more of the rest. The conjugal, parental, filial and fraternal relations exist between them, and originate between them rights and duties to the enjoyment and obligation of which, self government is not adequate. There must be a common government, subject to the control of one will, and this constitutes the law of family government.

This government is, in its nature complicated. It is not despotic, nor even absolute. The conjugal authority is more limited than the parental. The authority of the husband and wife is reciprocal—the paternal and mater-

nal authority over the children is not the same. For years from the time of its birth, the child, incapable of self government, is committed by nature to the government of the mother—but that government itself is controlled and modified by the preceding nuptial bond between the father and mother, and the law of that union gives to the father the government of the family.

In the scriptural account of the Creation, it is related that the woman was created as an helpmeet for the man. His authority over her was not given to him in the state of innocence, but as a penalty upon her disobedience to the divine command. The exercise of the power of family government was thus expressly conferred upon the man, and entailed upon their posterity till the final redemption of the race, while the sentence upon the man for hearkening unto the voice of his wife, in disobedience and violation of the condition upon which he had been placed in the Garden of Eden, was, that he should till the ground and eat bread in the sweat of his face, till he should return to the dust out of which he had been taken.

Now, then, the *social compact* which constitutes the *body politic*, as defined in the preamble to the Constitution of the Commonwealth, is formed by an association, not merely of individuals, but of families; and although the covenant is, as it is declared to be, between each citizen and the whole people, yet the actual pledge of each family is given only by its *father*, who stands sponsor for his wife, for all his unmarried daughters, for his sons under age, and for all his posterity, while the compact remains unchanged. So it was that the Constitution of this Commonwealth was formed. It was the work of the whole people; but no woman, no man under the age of twenty-one years, had a hand either in its preparation, or in the final vote by which it was adopted.

When the government is once constituted, the action of the people upon its operations is confined to the mere

process of *election*, and the concurrence of popular opinion and feeling. The Bill of Rights of Massachusetts declares that all elections ought to be *free;* and that *all* the inhabitants, *having such qualifications as they shall establish by their frame of government*, have an equal right to elect officers, and to be elected to public employments.

By this article, the right of voting at elections, and of being elected to office, is confined to the individuals having the *qualifications* established by the Constitution.

The qualifications established by the Constitution of 1780, were for the right of voting: 1. Sex, confined to males. 2. Age, twenty-one years. 3. Place and time, inhabitancy for one year next preceding the election. 4. Property, a freehold estate within the Commonwealth, of the annual income of three pounds, or ten dollars, or any estate of the value of sixty pounds, or two hundred dollars.

The qualifications for election, as a member of the House of Representatives, were, sex and age, as for the voters—choice by written votes—inhabitancy for at least a year preceding the election,—a freehold within the town, of one hundred pounds value, or rateable estate to the value of two hundred pounds:—as a Senator, a freehold estate, within the Commonwealth, of the value of three hundred pounds at least, or personal estate to the value of six hundred pounds, or both to the amount of the same sum—inhabitancy within the Commonwealth for five years immediately preceding the election, and in the district for which he is chosen, at the time of election;—as Governor, or Lieutenant Governor—inhabitancy within the Commonwealth, for seven years next preceding the election; a freehold estate, within the Commonwealth, of the value of one thousand pounds—and that he should declare himself to be of the *Christian* religion.

The declaration upon oath in the belief of the truth of the Christian religion was also required of all Councillors,

Senators, Representatives, and Executive and Judicial officers, but not for the exercise of the right of voting.

This Constitution was made and adopted by the *people* of Massachusetts in the year 1780. It was the work of the democracy—that is, of the whole people; but there is no definition of democracy, which can claim it as embraced within its principles. There was a provision in the same Constitution for the assembly of a Convention, for the revisal and amendment of it, at the end of fifteen years, if desired by two thirds of the qualified voters throughout the Commonwealth. In the year 1795, this question was submitted to the people; but they were so well satisfied with the operation of the system after fifteen years of experience, that they declined by a large majority the calling of a Convention.

A longer experience of forty years had however produced a change of public opinion in the generation succeeding that which had formed the original Constitution.—In 1820, a Convention was assembled, containing a full representation of all that remained of the people of Massachusetts Bay, for immediately before this event, the Commonwealth of Massachusetts had been severed in two. The largest portion of its territory, and the most thriving portion of its population had been set off, by common consent, as a separate State, reducing the Commonwealth in extent and power, from one of the largest, to one of the smallest in the Union.

At the Convention of 1820, nine amendments to the Constitution of 1780 were prepared and recommended to the people, by whom they were adopted on the ninth of April, 1821.

By the last of these amendments, it was provided that if, at any time thereafter, any specific and particular amendment to the Constitution should be proposed in the General Court, and agreed to by a majority of the Senators, and two thirds of the members of the House of Representatives

present and voting thereon, such proposed amendment or amendments, should be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the General Court, then next to be chosen, and should be published—and if in the General Court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the Senators and two thirds of the members of the House of Representatives present and voting thereon; then it shall be the duty of the General Court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the Constitution of this Commonwealth.

Since the Convention of 1820, three additional amendments have been engrafted upon the Constitution—the first in 1831, the second in 1833, and the third in the year 1840.

We are now prepared to affix a precise and definite idea to the fundamental principle asserted in the fifth article of our Declaration of Rights, that all power resides originally in *the people*, and is derived from them—and to observe how this power has been practically exercised by the people of this Commonwealth in the formation and successive amendments of their Constitution.

We see that from the first step to the last of this process, the people exercising power is, as by the laws of nature it must be, only a portion of the people over whom power is exercised; the latter embracing every human being within the territory, the former consisting only of *qualified voters.*

The Convention which *prepared* the Constitution of 1780 was assembled by the authority of a preceding representative Assembly, revolutionary in its character, and itself elected by *qualified* voters. The members of the

constituent Convention were elected by *qualified* voters. The Constitution when sent out to the people, was adopted and ratified by *qualified* voters; and the Convention declared it to be the Constitution of the Commonwealth, because it appeared, by the returns, that more than two thirds of the *voters* upon it had approved it.

It is said, by Rousseau, that the social compact can be formed only by *unanimous* consent, because the rule itself, that a majority of votes shall prevail, can only be established by agreement, that is, by compact. But I have endeavored to show, you will judge with what success, that the social compact, constituting the body politic, is, and by the law of nature must be, a compact, not merely of individuals, but of families,—that the civil association necessarily presupposes a family compact, constituting a community, for the whole of which there can be but one vote. We read, indeed, in ancient history, of a republic of Amazons, consisting entirely of *women*; but if we are to believe the accounts which we have of them, their constituent compact was not very *social*, nor was it at all founded upon the laws of nature, or the *rights of man*. One of their fundamental laws was to murder their own male children. Another, to amputate one of the breasts of their daughters. If such a *body politic* ever existed, it was doubtless extinguished by the alliance of their Queen Thalestris with Alexander of Macedon, and the consequent subjugation of the female republic to the conqueror of the world.

There have been, in more modern times, and even under the Christian dispensation, communities exclusively composed of men, and others of women. They have been sometimes invested with sovereign powers, and the law of celibacy has been imposed upon their rulers, but not upon the people subject to their sway. They have served rather as warnings than as examples to mankind; they may have constituted bodies politic, but can never be

considered as a people, from whom was derived the power exercised by their government over them.

The power exercised by the government of the Commonwealth of Massachusetts over the whole people, that is over every human being within the state, was conferred by a majority, amounting to more than two thirds of the actually voting qualified voters.

This is not Democracy as understood in the theories of modern times. We are told that Democracy is the government of the whole people, and that universal suffrage is its only rule,—that the democracy of *numbers* constitutes the sovereign power, and that it must always be governed by majorities.

But Democracy is not, and cannot be, the government merely of numbers. The social compact which constitutes a sovereign state is a compact not only of individuals, but of families. The people who form the Constitution and administer the government, are, and can be, only a portion of the people governed by it. No compact can be made by persons incapable of contracting; and as the family union must, in the order of nature, precede the compact which constitutes the body politic, and as by the law of nature and of God, the family must be governed by one will, that of the father, Democracy is not, never was, never can be, the government merely of numbers.

The body politic consists of human beings, male and female—of adults and children. In its formation, the father alone is qualified to vote for himself, for the wife, the mother, and the infant children. The vote, by the law of nature and of God, must be confined to the male sex, because the contract, embracing the whole family, one member of the family must pledge the faith, and stipulate for the rights of the whole. That member is the husband and father. The wife is not qualified to vote, because, by the nuptial tie and the law of God, her will has been subjected to that of her husband—because, were

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it otherwise, the vote of the husband and of the wife might be opposed to and would annul each other, and either the body politic could not be formed, or it must be formed without the vote or consent of every family thus divided.

Here then are *qualifications* to vote in the formation of the body politic prescribed by the laws of nature and of God, which must limit the law of universal suffrage, and cannot be overcome. The husband and wife cannot both vote, because their votes, like opposite forces in nature, would destroy each other, and neither would be a party to the compact. This disqualification is permanent and irremovable.

That of the children is temporary. The capacity to contract is confined to the age of discretion. That is different in different individuals ; and the capacity to contract depends, in some degree, upon the nature of the contract itself. The capacity to form the nuptial contract, comes with the age of puberty, differing in different climates, and of earlier maturity for the woman than for the man. The capacity for voting at the formation of the body politic, may be reasonably fixed at that period of life, when the youth, emancipated from the parental authority, goes forth into the world to provide for his own subsistence. This age, by the original Constitution of Massachusetts, was fixed at twenty-one years. And so it continues to this day, with one exception. In the 5th article of amendment to the Constitution, adopted in April, 1821, it is provided, that "in the elections of captains and sub-"alterns of the militia, all the members of their respective "companies, as well those under, as those above the age "of twenty-one years, shall have a right to vote." The reason for this variation from the general rule of qualification for voting, is that eighteen years is the age at which the citizen is enrolled for service in the militia; and when the community calls upon the individual for military ser-

vice which may involve the sacrifice of his life, it is but just that he should at the same time be invested with the right of voting for the officers by whom he is to be commanded.

But much more extensive alterations of the qualifications, as well of the voters as of the officers of the Commonwealth, were established by the amendments recommended by the Convention of 1820, and adopted in April, 1821. The qualifications of *property* and of *belief in the truth of the Christian Religion* were abolished. Instead of the qualification for the right to vote, of a freehold estate within the town of the voter's residence, of the annual income of ten dollars, or any estate of the value of two hundred dollars, the qualification substituted, and now established, is the previous payment, by the voter himself, or by his parent, master, or guardian, of any state, or county tax, within two years next preceding the election, assessed upon him in any town or district of the Commonwealth. The qualification of one year's residence in the *town* where the vote is cast is superseded, and one year's residence in the Commonwealth, and six calendar months in the town, next preceding the election, is substituted. Paupers and persons under guardianship are expressly excluded from the right of voting by the amendment, who had not been by the original Constitution.

The qualification of previous payment of a tax, with the express exclusion of paupers, differs perhaps not much in practical operation from that of property prescribed by the original Constitution—but the protection and security of property is not less the purpose of the social compact than that of persons.

And although several of the amendments to the original Constitution of Massachusetts have greatly diminished the representation of property, and enlarged that of persons in the Legislature, there still remains an overpower-

ing representation of property, in the Legislature of the Union, though exclusively confined by the Constitution of the United States to the southern section of the country.

The philosophical examination of the foundations of civil society, of human governments, and of the rights and duties of men, is among the consequences of the Protestant Reformation. Under the hierarchy of the church of Rome, human government was of divine institution. The powers that be, were ordained of God ; and the monarch, at the head of the nation, was the Lord's anointed. The principle of the Protestant Reformation was, to deny, not that human goverment was of divine institution, but that implicit belief and obedience was due to the commandments of men. The controversy was at first confined to the extent and limitations of human authority in matters of religion. The Roman Pontiffs claimed the right, and had exercised the power, of granting indulgences for the commission of sins, and these indulgences were actually sold for money. This monstrous pretension, striking, in the name of religion, at the root of all morality, was too much for the human mind to endure. Martin Luther, an Augustine monk, a professor at a German University, there set up the standard of human freedom, and denied the *right* of the Bishop of Rome to grant indulgences for the commission of sins. Simple as this proposition now appears to you, vital as it is to the freedom and the virtue of the human race, more than three centuries have passed away since it was proclaimed by an obscure monk at the University of Wittenberg. Some of the bloodiest and most desolating wars that ever afflicted the human race have been waged to maintain it, and now at the end of three hundred and twenty-five years, it is yet denied by more than half the nations of Christendom.

The question raised by Martin Luther, involved the whole theory of the *rights* of individual man, paramount

to all human authority. The sale of indulgences was but one of an enormous mass of usurpations, which the pretended successors of Peter, the fisherman of Galilee, had for a series of ages been heaping upon the back of the Christian world, till it was sinking under its load of oppression.

The reformation of Luther raised the question of *right* between the subject and the sovereign. Its first application was only to ecclesiastical power—to the authority of the Bishops of Rome. But the question of individual right being once raised, and successfully maintained, could not but, in process of time, be applied as well to political as to ecclesiastical authority. Divine right was no longer a sufficient commission for kings to reign, and princes to decree justice.

In Germany, the controversy was confined to the extent and limitations of ecclesiastical power. In France, the progress of the reformation was arrested by the apostacy of Henry of Navarre. From the cell of an Augustine monk and the hall of a German University, issued forth the freedom of the soul from spiritual tyranny. From Saint Stephen's Chapel and the electric spark from mind to mind in an English House of Commons, went forth civil and political freedom, to penetrate into the prison where the body of man was confined, and to lead him forth to the light of day, as the angel of the Lord in a blaze of supernatural light raised up Peter in the dungeon of Herod, smote him on the side, while the chains fell off from his hands, and led him out to preach to the nations the blessed gospel of peace and love.

The kings and queens of England arrested the progress of the reformation, by transferring to themselves the supremacy, which they extorted from the bishops of Rome. But the talisman of *human rights* dissolved the spell of political as well as of Ecclesiastical power. The Calvinists of Geneva and the Puritans of England, contested the right of kings to prescribe articles of faith to their people,

and this question necessarily drew after it the general question of the origin of all human government. This question gave rise to the civil wars of the seventeenth century in England, and to the two parties of Royalists and Republicans, or of Cavaliers and Roundheads. In search of the principle of human government, Hobbes, a royalist, assumed that the state of nature between man and man was a state of war—whence it followed that government originated in *conquest*. Upon this, Rousseau justly remarks, that a people subjected by the right of conquest, are perfectly right in submitting to the government, as long as they cannot help themselves; but that submission is not peace, and that the first moment of power to resist, confers upon them the right to cast off the yoke. The theory of Hobbes is directly opposite to that of Jesus Christ. It severs the Gordian knot with the sword, extinguishes all the rights of man, and makes force the corner stone of all human government. It is the only theory upon which slavery can be justified as conformable to the law of nature. This is Sir John Falstaff's law, when speaking of Justice Shallow, he says, if the young dace be a bait for the old pike, I see no reason in the *law of nature* why I may not snap at *him*.

Sir Robert Filmer, by a theory far more plausible though not more sound than that of Hobbes, derived the origin of human government from the scriptures of the Old Testament—from the grant of the earth to Adam, and afterwards to Noah. Perceiving that government, by the law of nature, must embrace an association of families as well as of individuals, he inferred that from the absolute authority conferred by nature to parents over their infant children, the power of the government over nations was identical with that of the patriarchs over their descendants, absolute and unlimited.

I say that this theory was *plausible*. It is true, as in this discourse I have endeavored to demonstrate, that by

the nature of man and the laws of God, the social compact which constitutes the body politic, or in other words the sovereign state, must be formed by an association of families, as well as of individuals;—that the government of each family, as a community, must be regulated by one will—that of the father—and that God did by *covenant* give the renovated earth to Noah and his *family*, and the land of Canaan, with the promise of blessings to be shared by *all* the *families* of the earth, to Abraham and *his seed*; a promise, the accomplishment of which was not to *commence*, till after the lapse of many generations, and which cannot be consummated till after the lapse of many more. But the vital error of Filmer was in assuming that the natural authority of the father over the child was either permanent or unlimited, and still more that the authority of the husband over the wife was unlimited. Sir Robert Fimer did not perceive, that, by the laws of nature and of God, every individual human being is born with *rights*, which no other individual or combination of individuals can take away. That *all* exercise of human authority must be under the limitation of right and wrong, and that all despotic power over human beings is exercised in *defiance* of the laws of nature and of God—all Sir John Falstaff's law of nature between the young dace and the old pike. The authority of the husband over the wife is itself the result of a *compact* preceding in its nature that of the body politic. The union of the sexes is necessary for the preservation and continuance of the species, but this union in every individual case, must be formed by mutual consent, and without exercise of authority on either side. Its only law, is the law of love; and

> "Love, free as air, at sight of human ties,
> Spreads his light wings and in a moment flies."

The nuptial tie of nature then must be formed by mutual *consent*, but its permanency must be by the mutual pledge of *faith*, that is by covenant or compact. Now

the terms of that compact may be varied at the discretion of the parties in every single case, but there is one incident necessary to them all—the concerns common to both parties must be regulated by one will. It may be the will of the husband, or of the wife, or alternately of either. By the law of nature the woman must bear the child, and the parental authority first devolves upon her. But by another law of nature, the union itself has originated in the *will* of the husband. The first advances must be made by *him*.

> "She, as a veil, down to the slender waist
> Her unadorned golden tresses wore
> Dishevell'd, but in wanton ringlets wav'd
> As the vine curls her tendrils, which *implied*
> *Subjection*, but required with gentle sway,
> And by her yielded, by him best received.
> Yielded with coy submission, modest pride,
> And sweet, reluctant, amorous delay.
>
> MILTON—Paradise Lost—4, 304.

The will of the husband then is by the law of nature the origin of the marriage contract, of its permanent continuance and of its last results, and when the family come to form with others the social compact and the body politic, that will of the husband and father must speak for the whole family, that is the wife and infant children. But this is surely neither unlimited nor even absolute authority. It is limited by the natural, inalienable rights both of the wife and of the children. The patriarchal origin of government therefore confers no despotic power, and the theory of Sir Robert Filmer, falls by the law of nature to the ground.

The history of Filmer's work is remarkable. It was composed and published in the heat of the struggle between King Charles the first and the Commons of England, which terminated in the overthrow of the monarchy and the death of King Charles upon the scaffold. It was the theory of government upon which the *cause* of the house

of Stuart was sustained. No one can be surprised that such a cause was swept away by a moral and political whirlwind that carried with it all the institutions of civil society, so that its march was a wild desolation. Charles was brought to the block—his family were hunted like wild beasts, escaping almost as by miracle into banishment, to live twelve years in such abject poverty, that his widow, the daughter of Henry the Fourth, of France, was compelled to keep her bed from day to day, in the winter's cold of Paris, for want of fuel to warm the chamber in which she lived. After twelve years of proscription and of wretchedness, the Stuarts were restored to the throne of England, by a counter whirlwind as sweeping as that by which they had been expelled. During the interregnum, while the long Parliament had reigned in the name of Democracy and Cromwell, by the sword of Naseby and by visions of regenerating grace, Filmer had died, and his book had fallen into oblivion.

In the first years after the Restoration, there was little speculation upon the nature of government. The reformers in church and state had made their own government so universally detested, and the name even of a republic so odious, that the reigns of Charles the second, and of his brother James, are among the most tyrannical and oppressive in English history. Charles was a dissolute, witty and profligate sensualist—James a gloomy and fanatical bigot. Charles corrupted the morals of the nation by his personal vices—degraded the honors of the constitutional aristocracy by heaping them upon prostitutes, and bastardized with spurious blood the whole peerage of the realm. James, by falling back into the arms of the Church of Rome, vainly struggled to turn back the tide of religious reformation, and the divine right of kings, and passive obedience, and non-resistance, became the only theories of government which could save the neck of an Englishman from the axe of an executioner. It was at

this period that the book of Sir Robert Filmer was dug up from the grave in which it had slumbered with him, and became the Bible of the Stuarts and their train.

Sir Robert Filmer's Patriarcha, was republished in 1680, towards the close of the life and reign of Charles the second, and again in 1685, the first year of the reign of the second James. The republican spirit of the Anglo Saxon had slumbered on the white cliffs of Albion, and in his sleep, like the man-mountain in Lilliput, had been pinned down to the earth by the threads of a spider's web for cords. On the first re-appearance of Filmer's book he awoke, and like the strong man of Israel, at the cost of his own life, shook down the Temple of Dagon, and buried himself and the Philistines together under its ruins.

Sidney's Discourses on Government were written for the express and avowed purpose of refuting the doctrines of Filmer, who had been forty years dead. Sidney, a son of the Earl of Leicester, allied by the female line, to the Northumberland Percys, was born of the noblest blood of England. Born in 1622, he came into active life precisely at the agony of the conflict betwcen the Democracy and the Monarchy of England. He took his side not so much *for* the cause of the Parliament, as *against* that of the king. Though under twenty-six years of age, he was appointed one of the Judges on the trial of Charles, but he thirsted not for blood, and took no part in that cruel mockery of justice. His cause was *Liberty*, and the anarchy of the Rump and the bayonets of Cromwell, were as little to his taste as the crosier of Laud, or the patriarchal sceptre of Filmer. After the abdication of Richard Cromwell, in 1659, Sidney was appointed a member of the Council of State, and immediately after was sent with two other commissioners, to mediate a peace between Denmark and Sweden. This they accomplished, but in the mean time the Stuarts were restored, and Charles was extinguishing

as he vainly imagined, in the blood of the regicides, all future opposition to the divine right of kings. Sidney, though not included in the number of the regicides, was one of the main pillars of the republican cause, and was personally obnoxious to Charles the second, for some occasional offensive remarks that he had recently made—especially for two Latin lines that he had written in the album of the royal library at Copenhagen :

"Manus haec inimica tyrannis
Ense petit placidam sub libertate quietam."

"This hand, the rule of tyrants to oppose
Seeks with the sword fair freedom's soft repose."

The second of which lines,

"Ense petit placidam sub libertate quietam"—

was adopted by the founders of the Commonwealth of Massachusetts, as the motto to the arms of the State ;—a motto lasting as the Commonwealth herself, and ever admonishing her sons that the enjoyment of quiet freedom is the *only* lawful motive for drawing the sword to shed blood in resistance to tyranny, and signally marking at the same time their approbation of this sublime sentiment and their profound veneration for the character of Algernon Sidney. He was advised by his father and other friends not to return to England, and led a wandering life, residing from time to time in various parts of Europe, for seventeen years, till after narrowly escaping assassination by ten men sent by Charles as emissaries into Germany for that express purpose, he obtained in 1677, by the intervention of Henry Saville, then ambassador of Charles, at the Court of France, and afterwards Earl and Marquis of Halifax, a pardon, and returned to England. Three years after, appeared the first republication of Filmer's Patriarcha, upon which Sidney composed his Discourses on Government, which however he never published. The work was yet unfinished, when in 1683, he was arrested, tried and executed for treason, by participation in

what is called the Rye House plot. There was but one witness, the infamous Lord Howard, upon the fact—but instead of witnesses, extracts from these Discourses concerning government, these speculations upon the natural rights of man, were brought up as evidence of treason against him. They were not even proved but by a mere comparison with other papers, to be his hand writing. He died a martyr to that *old cause* in which he had from his youth been engaged.

The Discourses concerning Government, at once demolished and immortalized the work of Filmer. His name and his book are now remembered only to be detested. But the first principles of morals and politics which have long been settled, acquire the authority of self evident truths, which, when first discussed, may have been vehemently and pertinaciously contested. That the doctrines of Filmer had taken deep root and obstinate hold of the English mind, is evident, not only from historical testimony; not only from this great work of Sidney itself, but from the exertions of a kindred soul, John Locke, who seven years after the death of Sidney, and two years after the practical operation of the patriarchal theory had been illustrated by what was called the abdication of James the second, published ten elaborate treatises on government, in the first of which, says their title page, "the false principles and foundation of Sir Robert Filmer and his followers are *detected* and overthrown;" and the second was an Essay concerning the true original extent and end of Civil Government. The principles of Sidney and of Locke, constitute the foundation of the North American Declaration of Independence, and together with the subsequent writings of Montesquieu and Rousseau, that of the Constitution of the Commonwealth of Massachusetts, and of the Constitution of the United States.

Under these two Constitutions we live; and our allegiance is due, by the one to this great confederated Union;

by the other, to our beloved Commonwealth. Neither of these Constitutions separately, nor the two in combined harmony, can without a gross and fraudulent perversion of language, be termed a *Democracy*. They are neither Democracy, Aristocracy, nor Monarchy. They form together a mixed Government, compounded not only of the three elements of Democracy, Aristocracy, and Monarchy, but with a fourth added element of *Confederacy*.—We are then as Mr. Jefferson forty years ago said, all federalists—all republicans—but not all *Democrats*, no more than we are all Aristocrats or Monarchists.

We are divided into parties—warm and bitter parties, which are not necessarily, but are very apt to degenerate into factions. One of the properties common to all parties, and symptomatic of a tendency to degenerate into faction, is the assumption to themselves, of a popular name, and branding their adversaries with an odious one. It sometimes happens that antagonist parties both assume the same name because it is popular, and stigmatize their adversaries with another name because it is odious. This has been and it is feared will continue to be the practice of all our parties. The struggle was long and acrimonious for the name of Republicans, assumed by both parties but claimed as exclusive by one of them; and when Mr. Jefferson had settled that *all* were Republicans, his own party dissatisfied with the decision, cast off the appellation for which they had so steadily contended, and called themselves *Democrats*. The Constitution of the United States, when adopted by the people of the United States, was so far from being considered as a Democracy, that Patrick Henry charged it in the Virginia Convention, with an awful squinting towards Monarchy. The tenth number of the Federalist, written by James Madison, is an elaborate and unanswerable essay upon the vital, and radical difference between a Democracy and a Republic.—But it is impossible entirely to disconnect the relation between

names and things; when the anti-federal party dropped the name of Republicans to assume that of *Democrats*, their principles underwent a corresponding metamorphosis, and they are now the most devoted and most obsequious champions of executive power,—the very life guards of the Commander in Chief of the armies and navies of the Union.

But they have assumed the name of Democrats, and they tell us that Democracy is the dominion of man over his accidents—or that Democracy is the government of the *whole* people and nothing but the people; that no fraction of the people, not the purest, not the strongest, not the wealthiest, not the wisest, no—the whole people, man, woman, child, born or unborn, foreigner and native—the lunatic, the lover and the poet, all, all must govern—and that is Democracy—that is *eternal justice ruling through the people.*

But the *name* of *Democracy* it has been discovered is very TAKING among the multitude, because, after all, it is but the investment of the *multitude* with absolute power.

Were I permitted to select a name for the party to which I should wish to belong, it would be that of Constitutionalist; meaning thereby faithful adhesion to the two Constitutions, of the United States and of the Commonwealth. They are the fruits of the wisdom and valour of our forefathers matured and modified by the experienee of more than threescore years. They are both the work of the people; one of the Union,—the other of the State—not of the whole people, by the phantom of universal suffrage, but of the whole people by that portion of them capable of contracting for the whole. The work, not of eternal justice ruling through the people, but of man,—frail, fallen, imperfect man, following the dictates of his nature and aspiring to perfection. It is not Democracy,—nor Aristocracy, nor Monarchy, but a compound of them all, of which Democracy is the oxygen or vital air, too pure

in itself for human respiration, but which, in the union with other elements equally destructive in themselves and less pure, forms that moral and political atmospheric air, in which we live and move and have our being.

But after and above all, let us never forget, in the most fervent heat of our party conflicts, that there is a *cause*, embracing and transcending all others—like the all surrounding orb in the philosophical theory of the learned and ingenious Bowdoin, President of the Convention which formed the Constitution of our Commonwealth, which he supposed necessary as a counterbalance to the principle of gravitation, to preserve the system of the material universe from ruin—that cause, before which all party spirit must hide its diminished head—kindling every affection of the heart, and inspiring every faculty of the soul—the cause of *our Country*.