

ART. V.—THE LATEST CONTINENTAL THEORY OF
LEGISLATION.

1. *Three Letters on Direct Legislation by the People; or, True Democracy.* By M. Rittinghausen, a Member of the National Assembly at Frankfort. London: James Watson.
2. *The Difficulty Solved; or, the Government of the People by Themselves.* By Victor Considérant, a Member of the Constituent and of the National Assembly of France. (Translated from the French.) London: James Watson.

THE spectacle presented by France is strange as well as painful. An amiable, sociable, lively, and merry people, lives in constant fear of civil war. An intelligent people, containing a highly-educated class, with access to all the stores of erudition and history, does not know how to secure its liberties. A glory-loving people, which believes itself to be, beyond question, the foremost in Europe, and looks back with pride on its warlike achievements, is yet so little proud of its internal history, that the perpetual and deliberate aim of its movement party is to cut away all connection between new and old France. We thus see a nominal Republic established, in which men cannot cry out *Vive la République* without danger of imprisonment; and a worthless man brought into power by five million votes, who has successfully plotted to overthrow the constitution to which he vowed allegiance.

We have not half painted, nor is it needful to paint fully, the perplexing picture. The startling development of this new slavery in France, without the aid of foreign armies, is likely to give weight to what else would be called the closet-theory of the Cologne democrats, of whom M. Rittinghausen is one. This gentleman, a respectable refugee from Germany, has won the convictions of Victor Considérant, a *Phalansterian* Socialist, who was driven from France by sharing in Ledru Rollin's just, but ill-managed, resistance to the unprincipled invasion of Rome. M. Considérant was recently the principal editor of the *Démocratie Pacifique*, and is now active in diffusing the Cologne theory, which condemns all Representation, and identifies Democracy with *Direct Legislation* by the people.

By this phrase it is understood, that the individuals of the nation will in each separate locality pass their votes concerning each bill; and be virtually themselves the Parliament, though not sitting together in the same place.

M. Rittinghausen furnished the practical details, and M. Considérant superadds a demonstration that the practice flows

necessarily out of the theory of Popular Sovereignty. The first letter of Rittinghausen condemns Representation by its malversations; the second explains how direct legislation can be organised; the third deals with three objections. 1. That the people are not enlightened enough to make the laws individually. 2. That they have not leisure for it. 3. That Direct Legislation does not realise the ideal of liberty. Of these he rejects the two former, but reluctantly admits the third, which means, that a majority may possibly oppress a minority. There is subjoined an Appendix, in which he replies to Ledru Rollin's attempt to modify the system of Parliaments.

We do not find in M. Considérant's ampler writing, anything practically added to that which Rittinghausen proposes; and we shall therefore treat of the two in combination. We do not assent to the constructive theory of M. Rittinghausen; yet we think his attack upon *the essential principle* of Parliaments excellently timed, and likely to be very valuable; in leading us to inquire, not merely how to get an enlargement of "the franchise," as though this were all and everything, but also, what are the inherent vices of Parliaments as such, and how are they to be remedied?

According to Rittinghausen, Parliaments are and always must be essential nuisances, which need to be suppressed, not reformed. "There is not a political man in Europe," says he, p. 31, "who does not know at this moment, *that all assemblies are incapable of making a good law upon any subject whatever.*" [In italics in the original.] He avows that an attempt, such as Ledru Rollin suggests, at modifying and restricting the power of Parliament, "if it could be realised after a victorious revolution, would again bury the democracy beneath the ruins of liberty. It leaves standing the evil, that is, *delegation.*" In Rittinghausen's view, every possible Parliament is necessarily the organ of the bourgeoisie—(apparently he means, that a majority of the delegates are certain to be of one mind with this class)—and therefore, it will not act for the nation, but for the interests of this one section of the nation; and he asserts (p. 17) that doubtless this is precisely that part which has proved itself to be most completely incapable of governing the State. M. Considérant avows (and claims M. de Girardin as on his side), that every Constitution is an essential evil; is "a bad compromise between incompatible terms; a pact of guarantees not guaranteed; a thing philosophically absurd, and practically calculated to maintain the competition of parties, their outrages on liberty, their usurpations over universal right, and consequently, generating war and revolution:" p. 63.

What then is his cure? He dislikes monarchy: he hates

aristocracy; he abominates representative authority as middle-class-rule: there remains nothing but DIRECT government by the individual citizens. Projects of laws may, indeed, be prepared by a Committee; but "they will not become laws until sanctioned by the universal people."—V. C. p. 26.

"The LAW," continues M. Considérant, "is a contract interposing between all the members of society. *It could not, without an iniquitous servitude, be obligatory on those who should have been precluded from the formation of this contract*; consequently, every Frenchman, and every Frenchwoman of full age makes, with perfect right, part of the [legislative] sections in which his or her domicile is situated."

We here trace a difference between the headlong Frenchman and the cooler German. M. Rittinghausen, we have seen, fairly avows, that direct legislation does not realize the ideal of liberty; although we wonder that, while admitting this objection, he can think to set it aside in these few words, p. 27:

"3. Direct legislation does not realize the ideal of liberty.

"We confess that this assertion is perfectly true; *but whatever the minority of the votes may be, seeing that the interests of almost all the people are identical*, it is no less true, that THIS MINORITY OUGHT TO OBEY THE LAWS IT HAS DISAPPROVED. Thus are we constrained to propose Direct Legislation as the decisive step to be taken towards the brilliant future that humanity sees open before it."

Truly this is a marvellous Liberty in which M. Rittinghausen lands one. If Ireland had that national independence and direct legislation which he must in consistency claim for it, a clear majority of that nation might pass a law that we (a heretical minority) should worship the Virgin and Saints, confess to the priest every month, give up our children to be indoctrinated in Jesuitism, and recite the creed audibly every Sunday in church. According to M. Rittinghausen, we are then obviously "bound to obey the law we have disapproved." Indeed! but is not the law unjust? Nay! he will reply, "the interests of almost (!) all the people are identical;" the majority therefore cannot have an *interest* in passing an unjust law. If we humbly suggest that the majority consists of uneducated and ignorant people, he authoritatively silences us, p. 18:

"Ah! you believe then that it is *knowledge* which makes good laws. UNDECEIVE YOURSELVES! To make just and wise laws, *good sense* is above all required; that social good sense which is often vitiated by an education full of mercantile prejudices and steeped in stock-jobbing. In fine, what is wanted is—*honesty*."

He proceeds—not to prove that the peasants, artizans, shopkeepers' assistants, porters, coachmen, soldiers, and apple-

women of every country, or of France, *have* good sense and conscientiousness—but, to tax the bourgeoisie with all the misdeeds of *the French court* from 1815 to 1848! as if, moreover, this were the lowest possible deep, and every change must be for the better.

We think it is thus pretty clear, that though M. Rittinghausen writes with so much decision and earnestness in favour of Direct Legislation, yet, as often happens in Politics, he is actuated more by hates than by loves. He is not quite blind to the fact, that a numerical majority may oppress; but his mind is too full of other tyrannies to dwell on this. He probably takes for granted, that the forms of oppression most to be feared from masses of men (especially religious bigotry), belong to a past age, and will not recur: he winks at the fact, that the many are no more infallible than the few, “feels himself *constrained* to propose Direct Legislation,” and plainly tells the minority that it is their duty to submit to the oppressions against which they have protested, if their Sovereign Lord THE MAJORITY enacts them. While saying this almost in so many words, he at the same time declaims against the Sovereignty of “a Party,” and will endure nothing but the Sovereignty of “the Nation;” and is so blind to the fact, that the Majority is nothing but a Party, that he even adds the critical words, “*whatever the minority of the votes may be,*” still, the large oppressed minority OUGHT to submit! Surely it is manifest that M. Rittinghausen’s philosophy does not yet go to the bottom of this important practical grievance.

M. Considérant, on the other hand, is too headlong to see the difficulty, or understand that there is any objection at all. While he declares that no law can, without an iniquitous servitude, be obligatory on those who have been precluded from voting concerning it, it does not seem to strike him, that to have to submit to an UNJUST law, *against the enacting of which we protested,* is to the full as iniquitous a servitude as if we had no opportunity of protesting: nor yet does he explain, whether the whole code of laws must be perpetually repealed and remade, in favour of young people who are from day to day coming of age. Each of them in turn may tell M. Considérant, that it is an “iniquitous servitude” to be bound by laws, at the enactment of which he or she did not vote. But M. Considérant is a logician! He starts from one axiom: “THE PEOPLE IS SOVEREIGN.” This is now confessed by all French Statesmen, even by M. Louis Napoleon himself; therefore there can be no doubt whatever of its truth; and his sole business is, to *deduce* and *elicit* the practical results of this simple principle.

His first process is one of interpretation, unacknowledged, and probably unnoticed by himself; viz. silently to modify the axiom into another, "The NUMERICAL MAJORITY of the people is justly SOLE GOVERNOR."

After this, the rest is easy. A people which elects men to legislate for it, parts with its governing powers, makes others its masters, and thereby ABDICATES its Sovereignty—which is absurd.—Q. B. D.

Corollary.—The People ought not to delegate legislation at all, but ought to legislate of and by themselves; that is, pass laws by a MAJORITY of votes, taken in sections, and added together numerically.

But M. de Girardin resists the assertion, that to delegate legislation is to abdicate Sovereignty. He asks:—When Louis XIV. chose Colbert for his minister, was not that a delegation? but did he thereby abdicate his own Sovereignty? M. Considérant's reply will give M. de Girardin some trouble, p. 61:

"Certainly, Louis XIV., in choosing Colbert to *exercise his wishes and his designs*, did not delegate his sovereignty; on the contrary, he exercised it. But why? because Louis XIV. could *continually* dismiss Colbert; because Colbert was *always* dependent on him; and because he continually *communicated to Colbert his wishes and his designs*, in order that the latter might execute them. Let us suppose that Louis XIV., after having appointed Colbert minister, could not have dismissed him at pleasure and immediately; that he had been constrained to allow him to govern for a year according to his own discretion; that he could in no other way have controlled Colbert, but by nominating every year 500, 600, or 900 plenipotentiaries, more or less unknown to him, who, being once appointed, should be no longer in the least dependent on him; that if Louis XIV. had dismissed Colbert, he could do no more than appoint a new minister *on the same conditions*. In that case Louis XIV. would still be sovereign in name, certainly, but he would cease to be sovereign in fact. He would no longer exercise the sovereignty himself; he would be obliged to delegate it always. Does M. de Girardin believe that Louis XIV. would have accepted this sort of *exercise of the sovereignty?*"

This is forcible and decisive. We think it must have shown M. Considérant himself what are the real reasons why Parliaments usurp absolute power, instead of feeling that they are delegates: viz., *because their term of authority is too long, and their responsibility to the constituencies too feeble*. This would be the course of thought with one who desired to improve, not to destroy. But as M. Considérant, we say, is a logician, and has found a grand AXIOM universally conceded—from which Axiom it demonstrably follows that a Parliament is an impertinence and a fatuity—of course he will not take the trouble to mend an institution radically bad.

But he gives us special aid in the practical machinery of Direct Legislation, concerning which we doubt not that our readers are already curious.—There is no *physical* difficulty. If the people of France and Prussia could vote for a Constituent Assembly or for a President, why not for a Law? The difficulty of counting and adding together the votes is the same in both cases. If in each separate Section of a great country people can meet and vote (never mind about what), the whole problem is solved, as far as that side of the question is concerned.

Far greater difficulties encompass the method of *preparing* the laws on which the people are to vote. It is well known, that in the City-States of antiquity, where the legislative authority belonged avowedly to the people, there was generally a Senate, with which the *initiative* of every law rested; and when this was found to be too favourable to aristocracy, the only relief attempted by the people, was, to invest a magistrate elected by themselves (like the Roman *Tribune*) with the absolute power of initiating laws at pleasure; but to give to the people themselves this initiative, was thought to be a system that could not work, even in a petty community that assembled in one field. On the contrary, M. Considérant, believing that the Initiative is just the most precious prerogative of Sovereignty, cannot endure to strip the People of it. In fact, who are you, that propose to do this? Do you understand what you are aiming at? You, who know you are *not* Sovereign, desire to forbid the exercise of Sovereignty to him whom you acknowledge *to be* Sovereign! This cannot be thought of: the People *must* have the initiative in legislation. Nor is that really difficult. They will enact that—

“Every proposition supported by *five hundred thousand votes* shall be reputed as taken into consideration by the nation, and put in the Order of the Day.”

“Except in cases of urgency, a month, at least, shall elapse between the putting in the Order of the Day, and the voting on the proposition.”

“Every proposition relative either to the Order of the Day, or to the revocation of the minister of the people, shall be considered as of urgency.”—*V. C.* p. 27.

We are not sure that we fully understand the last of these three paragraphs; but as to the first, he thus repeats himself, p. 34:

“Imagine to yourself the government of the nation by the nation, in full exercise.”

“*Every proposition, political or social*, is brought before the national meetings.”

“To be taken into consideration only, it would require 500,000 suffrages; or a larger number perhaps, if the People, in practice, found that number insufficient to resist the invasion of absurd propositions or those not yet arrived at maturity. This is a point to be regulated by the universal assembly.”

We cannot find any more exact explanation, and we suppose him to mean, that when so many as 500,000 persons send up “a requisition” to the minister, to put a particular law to the vote, then he will be bound to obey; and without such a requisition, he will have no power to act. It must immediately occur to every one, that if this were the law, the *intrigues* which M. Considérant hopes to banish would have a very active life in this department. We know how “Petitions” are got up in this country. If a Petition were a necessary and sufficient preliminary to legislation, active politicians would set afloat the Petition they desired. Would this be called, by M. Considérant, “the initiative of the Sovereign People?”

At the same time, it may be remarked, that *the rules of proceeding* which M. Considérant desires the People to enact, are (however he may disguise it) neither more nor less than that shocking absurdity, a Constitution; a gross invasion of Popular Sovereignty, if imposed by a Provisional Government, or a wild abdication of power, if sanctioned by the nation itself. When the Athenian people, against their own laws, desired to try and convict six generals by one vote, instead of voting separately concerning each, the great Socrates, who happened that day to be the presiding officer, refused to take the votes: on which the logical democrats (whom M. Considérant is bound to support) exclaimed, that “it was dreadful, if the sovereign people might not do as it pleased.” What has the nation to fear from the nation? asks M. Considérant triumphantly. We leave the reply to any of the six generals, who, being innocent, found himself condemned because of the guilt of others.

M. Rittinghausen exhibits, by the following example, the facility with which the people would legislate. Each magistrate in every section puts the following questions:—

1. Shall there be a railway from Paris to Avignon? *Answer*, Aye. 2. Shall the State or a Company of Shareholders make this railway? *Answer*, The State. 3. By which of three ways shall the State execute it—by taxing the people for the requisite sum? by borrowing it at eight or ten per cent. from the bankers? or by an issue of bonds on the railway itself? *Answer*, By bonds on the railway. 4. Shall transport on the rail be gratuitous, or shall the State draw a revenue from the rail? [M. Rittinghausen apparently wishes it shall be gratuitous, but adds, that if otherwise, a new question will follow; viz.] 5. Shall the

revenue of the rail be applied to the redemption of the bonds, or shall it be mixed up with the general income of the State? *Answer*, It shall be applied to the redemption.

"In this manner the people would at one meeting have made such a law as will never emanate from your legislative assemblies. *They would have given work rapidly to some hundred thousand labourers, WITHOUT TRENCHING ON THE CAPITAL ACTUALLY EMPLOYED IN INDUSTRY; which would have a salutary influence on the rate of interest. . . .* In this one evening, *the proletarian would have gained for France twelve millions sterling at the least; that is to say, seven shillings for himself, or twenty-eight shillings for a family of four persons.*"

We find nothing at all to explain this calculation of seven shillings * a head; but we are willing to accept it on M. Rittinghausen's authority. Nevertheless it here occurs to us to make several remarks. **FIRST:** he distinctly avows it as a legitimate object of public voting, to depress the rate of interest and raise the wages of labour, by undertaking enormous public works:—whether this would really lower the rate of interest, we do not now discuss. **SECONDLY:** we think M. Rittinghausen makes an egregious mistake in assuming that a nation can create capital at will by issuing bonds to any amount, and *not hereby draw off capital from other quarters.* But whether he is right or wrong is of less importance than the question, whether *knowledge* is at all requisite for deciding such points. M. Rittinghausen seems to apply very widely the doctrine, "Out of the mouth of babes and sucklings," &c., when he sets the mass of the avowedly uneducated and illiterate to decide questions of commercial economy, on which, unfortunately, he and we are not agreed. **THIRDLY:** we observe, that the brilliant feat, which so charms him even in contemplation, of gaining twelve millions sterling in a single evening—"which at present must too often be wasted in the tavern,"—this brilliant feat is achieved by *totally omitting Public Discussion* † out of his scheme! He is disgusted with the infinite palavering of Parliaments, and especially with the complication produced by Amendments. Speed of voting appears, in his system, the only thing aimed at. Now as for us, we are free to confess that a Parliament, which turns itself into a mere Debating Society is very tiresome; and

* We presume that the English translator has purposely given equivalents from our currency to suit English ears.

† Since this article was written, we observe M. Rittinghausen to use the phrase (p. 25) "the people, *deliberating* twice a week in their sections:" but it seems to mean "*internally meditating* how to vote;" not uttering and comparing opinions.—At least, in no other way can we reconcile his scheme with itself.

when the same thing is said fifty times over—after the time of action is evidently come—a Chamber which will not leave off talking, lowers itself; there is no doubt of it. Still, regarded as a Debating Society, it does its measure of good. On the contrary, a Chamber which only votes and never deliberates we regard with horror, as a machine for monstrous and incalculable iniquities. No Star-Chamber, no Inquisition, would perpetrate worse things than such a body. In fact, the great evil of the too much talk on certain Bills in our Parliament is, that it induces too little talk on many other Bills. Such assemblies do mischief afterwards by wholesale, in the Private Acts and unnoticed clauses which slip by in plenty, when all are wearied with indefinite ill-directed jangling. The smoke would be laughable, but for the dangerous things done under its cover, of which the managers know, that the less said the better for them. This omission to make arrangements for public deliberation is utterly fatal to M. Rittinghausen's scheme in detail. **FOURTHLY:** if Discussion be allowed, (and who is he who will tell the Sovereign People that they may not consult and advise?) great care is needed to regulate it. Among the Romans, the Tribune or Consul could ask whom he pleased to speak: this may seem only a way of strengthening the magistracy, which M. Rittinghausen would totally repudiate. Among the Athenians, all the old men above a certain age were invited by the crier to speak first. Any method that allows discussion is better than M. Rittinghausen's, which forbids it; but let us assure him that he will not earn the twelve millions sterling quite so quickly, if opinions are allowed to be spoken *pro* and *con*. We have all heard of the Irish Justice, who never would listen to the evidence on both sides of a question, because (he said) "it made his head ache to have to puzzle out which reasons were best." Jacques Bonhomme, we fear, would be similarly annoyed by hearing opposite arguments; yet, since the minority, whose rights will be affected by the voting, stand as suitors before the bar of a judge, they have a natural and inalienable claim that their cause be heard before it is determined. **LASTLY:** M. Rittinghausen regards *honesty* to be the great requisite for good legislation. We then ask, how he can expect poor simple peasants and "navvies" to give an *honest* decision on a proposal to make a railway, which (they are told) is to lower interest, find employment, and raise wages?

Besides all this, neither Rittinghausen nor Considérant gives us any insight into the machinery by which the successive questions on which the people are to vote for a proposed law, shall be framed. To leave this to the magistrate is virtually to give him the initiative which they refuse. It would probably

enable him always to defeat an unpalatable measure. There may be ways of avoiding the opposite difficulties, which we do not see; but certainly M. Rittinghausen is not warranted, after this single exhibition of wisdom, triumphantly to exclaim, (p. 27,)—

“*You begin now to comprehend what the world would be ten years after the introduction of Direct Legislation, which is simply the concentrating of all the human powers upon useful work.*”

Not at all the more has M. Considérant any conception of the difficulties offered to his scheme by the ignorance of the French population, a majority of whom cannot even read. He himself calls them “an immense bleating flock,” for having sanctioned the recent constitution. Surely if we are to recognise a difference between children and adults, between savages and civilized men, we cannot be under duty to shut our eyes to such broad realities as the illiterate and uncultivated state of a multitude. The people of France have not even *de facto* conquered a political supremacy for themselves. In the history of the last revolution nothing can be plainer, than that the republicans of Paris won a theoretical sovereignty for the French peasants, which the last neither expected, desired, nor knew how to exercise: and the election of Louis Napoleon, for the sake of his *name*, shows that it is as useless to try to make the rustic millions Sovereign (in M. Considérant’s sense), as a troop of children.

In saying this, we do not mean to side with those, who say absolutely, “People ought not to have *any* power committed to them before they have learnt to use it:” undoubtedly they will never learn, if they are never to practise. Let the “prentice hand” be tried on easier work—work in which a failure is less fatal to the happiness of millions. If French peasants be set to manage *local business*, they will make but few mistakes, and of those they will so quickly feel the mischief, that they will rapidly learn wisdom; and moreover, will begin the better to understand *national affairs*. But if a Parisian outbreak of violence attempts to force a Supreme Sceptre into the hands of those who have never spent a day’s meditation on the great questions which will be submitted to them, the imminently dreadful dangers to result from an erroneous decision will stimulate all the powers of intrigue (and assuredly with success) to wrest out of the child’s hand the formidable weapon which other persons have thrust into it.

We must do M. Considérant the justice of saying, that we believe him to be a pure-minded, earnest, benevolent man, who indulges in no *avaricious* plotting against wealth, and who

abhors all violence. But when we observe how emphatically he repeats that the first and most pressing claim upon every French government must be, that there be "**NO MORE MISERY**," [in small capitals, pp. 37, 38, and 41,] we think he ought to foresee, that laws to squander the property of the richer for the benefit of the poorer, might chance to get the signature of 500,000 adults. He tells us that "the people have arrived at the age of manhood," (p. 40,) a thing which we on this side of the channel cannot discern in their choice of men: but, as elsewhere he expresses it, that the people are becoming *phalansterized*, possibly this is his whole meaning. If, however, proposals hostile to property should be brought forward, what chance would there be for M. Considérant's humane and peaceful desires?

Neither he nor M. Rittinghausen seems to have any insight into the plain fact, that the ruinous concessions made to one or other form of Socialism by the Provisional Government, in the first few months of the revolution, and the armed and desperate attack made by Socialists (it is not to the purpose to ask of what class) in June, 1848, are the true reason why the bourgeoisie of Paris, and the Assembly too, sided with the reactionaries, and why wicked despotism is now triumphant over all Europe. M. Considérant entreats* the bourgeoisie to change sides. No such entreaty will be needed, when they are certain that Socialists will confine their efforts to private life, and aim only at *Voluntary Partnerships*; instead of clutching at Legislation in order to enforce their theories at other people's expense. M. Considérant ought to preach to the Communists, and convert them from this fatal policy, instead of threatening the bourgeoisie with the certainty of being killed and eaten up by the Populace if they side with the Despots.

M. Considérant has left on us the conviction that he is a feeling and right-minded man; and we are sure that he does not confound virtue and vice, but knows well that there are other causes of Misery beside bad legislation. Yet when he casts on Parliament the duty of causing that there shall be **NO MORE MISERY**, he seems to forget that Vice, Indolence, and Imprudence *will* cause Misery, whether Legislation be well or ill directed †. Instead of blaming Parliaments because they do

* We are here referring to his Tract, entitled, "The Last War in Europe."

† We do not for a moment mean that Legislation can do *nothing* in France to hinder misery, (by which we understand him to mean extreme indigence;) but we mean, that without a rare WISDOM (in no case to be expected from the miserable themselves) it will be as likely to increase as to lessen it: likewise, that existing Vice, Ignorance, and Bad Habits, could not,

not hinder Misery, and rejoicing in the embarrassment which is caused to them by the demand, he ought to reprove the fatal error of our Age, which looks to Central Power for that which it cannot give.

At the end of his discussion, M. Considérant has this characteristic passage, p. 73 :

“On the part of the partisans of Direct Legislation, to reply to objections is a concession of pure complaisance. We have a right, in fact, not to answer objections. We have a right to say to our opponents—You do not wish for the exercise of the Sovereignty of the People by the People? Then what do you wish? Produce your system. You have seen our proposition. What do you propose?”

The reader may at first wonder on what ground M. Considérant's doctrine, more than that of other men, is to be free from the common necessity of self-defence. A consideration of his words, however, clears up the meaning. He does not distinctly say, yet he implies, that it turns on the UNIVERSAL CONCESSION that the People is Sovereign. It is melancholy to see a worthy energetic man so overloading his first principle, that it must necessarily break with the strain; addressing himself to men's words, and not to their hearts; building a castle in the air, on the foundation, not of truth, proved and established by himself, but of concessions made by his friends, or wrung out of his adversaries by rifles, cannons, and recent revolution. At the same time there is a world of fallacy here, which it is important to analyze.

We believe it is not uncommon with Puseyite theologians, to open a controversy by the quiet remark, that we are all under the necessity and duty of selecting the Church which shall decide authoritatively on Truth: hence, since no Church even claims this power, but that of Rome and that of England, the question is conveniently narrowed to a decision between the two—“To which is it more reasonable to be subject?” In the same spirit M. Considérant holds, that we *must* be either Aristocrats or Democrats; for we must admit SOVEREIGNTY to reside either in a Part of the nation, or in the Whole of the nation;—there is no third thing possible. But (waiving the decisive reply*, that his Majority is nothing but a Part of the

by angelic wisdom, be extirpated within the period of a generation; and while these things last, Misery must last.

* Turning to his pages again, we are amused to see how he obviates this, (and it has less appearance of candour than his writing in general:)—viz., he gives as a “grammatical definition” of Aristocracy which all must admit,—that it is a case of “a People obeying a government EXTERNAL to themselves.” But in this view, People means Populace, not Nation. Here is a new sophism. *People* is alternately taken for “the lowest orders” or “the whole nation,” just as it is found convenient.

nation,) we must assure him that we no more concede a Living Sovereign (in his sense of the word), than a Living Judge of Truth, such as Puseyites and Romanists would force upon us. Truth and Right are, will, and must be, Sovereign, but no Living Person or Persons—except HIM in whom Truth and Right are enshrined eternally. When men become infallible and perfect, then—and not till then—let them be absolute, unchecked, and omnipotent Sovereigns, who must not be opposed, constrained, chastised, deposed.

We expect that M. Considérant, could he read our pages, would exclaim with amazement, "Surely it is a matter of practical necessity, that in every State *some* Person or Body *must* be Sovereign?" True: but not at all in M. Considerant's sense of Sovereignty. Let us trace the history of this word, which has been perverted from its rightful meaning by the adulation or tricks of Royalists. *Sovereign* was once the same word as the *Supreme* or Highest Person in the State. In this, only genuine, sense, the President of the United States or of France is the Sovereign for the time being: and in the Middle Ages, the same was the case with every king, whether his Person only, or his Family, was elected to the throne. But every such King had limited authority, was subjected to a Coronation Oath, and had numerous processes prescribed to him by Law and Custom. When he broke his oaths and the law (which was almost a uniform occurrence), and the people murmured, the Royalists of that day invented the parrot-cry (which M. Considérant adopts), "Pray, who are you, to dictate to your Sovereign? Surely, the Sovereign may do what he pleases?" Again, the King appointed bad ministers, and the Parliament grumbled, and entreated the King "to take to his side counsellors in whom they could confide;" but the Royalists replied, "What? is not the Sovereign to govern? and are you presumptuous enough to wish to control his choice of ministers? If so, it is you who govern, and not He: in fact, you make out that he is *not* Sovereign." Although in early days the sophism was too plain—for all men felt that to be the Highest person in the State did not mean that one was unchecked and absolute, and absorbed the Whole State into himself—yet when, by a long series of craft, perfidy, corruption, cruelty, and royal marriages on the part of princes, and of manifold selfishness and folly on the part of nobles, the kings all over Europe had established a despotic power; and all the clergy preached, that the dominion which had been won by violence was consecrated by religion;—thenceforward, and emphatically in the land where a youthful prince had the assurance to say to his parliament, "L'état? c'est Moi," the word Sovereign actually

gained the sense in which M. Considérant uses it; to imply that the Person to whom it is given *exercises the whole government irresponsibly and without constraint.*

It has been observed, that the prevailing vice of the Roman Republic, (rising, no doubt, out of the too great prevalence of military ideas,) was, that instead of restricting the tyrannical powers of their chief officers, they set up one tyranny to oppose another. Something similar we trace in France. Instead of denying that any one ought to be Absolute Lord, too many are solely busied with settling where the Absolutism shall be vested. Our reply to M. Considérant is, Nowhere. He totally misconceives such words as Royalty, Aristocracy, and Democracy, which by no means imply that the *Whole* Government is centred in a King, or in Nobles, or in a Plebeian order: indeed, any such government would be unendurable to human nature for a continuance, and, unless transitional only, will produce decay in a feebler nation, perpetual explosions and revolutions in one which is more robust. But a people is Aristocratic, when the *chief* (but not the *sole*) influence is exercised by the higher orders; it is Democratic, when the chief power rests with the lower orders, as to enforcing anything on which they happen to set their mind. And in spite of M. Considérant's "grammatical definition," the two epithets are so far from being practically opposed, that the same nation, from different aspects, may deserve to receive each. Thus the Roman Republic, in the period of its greatest internal happiness and vigour, was Democratic in this sense, that the Populace could carry any law on which they set their hearts; "even so far, *by Jupiter!* (says Polybius,) as to lower the honours, powers, or fortunes of the Senate"; yet in another sense the republic was eminently Aristocratic, inasmuch as the entire Executive Government, and the initiative of Legislation, rested with the higher orders; and with this the lower people (who could have altered it, if they had unanimously desired,) were exceedingly well contented. We do not mean to hold this up as a pattern for others. "There are many forms," says Sismondi, "under which a nation may enjoy freedom that deserves freedom." But most vehemently would we urge, that to lodge Absolute Lordship *any where* is necessarily fatal to Freedom, whether you give it to Nobles or Populace, King or Bourgeoisie. Power must be shared and checked, must be forced to hear discussion before it acts, and to give public reasons for its behaviour; otherwise it will assuredly become tyrannical.

How conscious M. Considérant is of the chaos of opinion into which France would be swamped, by opening at once every possible question for the decision of the rustic multitudes, is betrayed by his avowal, that the democrats did not know what

to do with power when they had seized it, and by his warning of the fresh dissensions imminent from new victory. But his only remedy (as far as we can discover) for this fatal incapacity, is found in such phrases as, *Know thyself!—Brothers, let us agree! . . .* Why that is just the difficulty with which sincere religious men have been struggling for centuries; but to their sorrow, amazement, confusion, and perplexity, they do not and cannot agree. And M. Considérant, with all his acuteness, does not see that nothing less than a generation spent in local deliberation on local matters can give political experience and political insight to the illiterate masses of a nation.

But we have said enough in controversy, when we differ from him as to the means, but agree as to the ends,—*Bonâ fide* popular liberty! No Pauperism! No Proletarianism! No Misery! No Vice! We agree farther with him, not indeed as to the essential evils of Representation, but as to the dangerous encroachments and usurpation on liberty which this principle has been allowed to make; on which we desire to say something more distinct than we can read in these tracts.

The only popular liberty which the ancient world attained, was that of City-States. The duties of the citizen were three-fold: to sit on juries, to elect magistrates, and to sanction ordinances. The last, when enacted with peculiar solemnity, became fundamental, or even sacred Laws; but by far the greater number of ordinances were rather like rules to guide the action of magistrates: moreover, under the idea of an "ordinance" was included the important function of deciding on War and Peace. Such States became too unwieldy, if the number of the citizens exceeded thirty or fifty thousand: nevertheless, if they could have kept at peace, new organs might have grown out of usage and analogy, to facilitate joint action.

But unhappily, these little communities, at least among Greeks, Latins, Gauls, and Spaniards, were always liable to *border-wars* of the most inveterate character, even among those who talked the same language; and their tenacious refusal to part with full constitutional independence (miscalled Sovereignty), hindered their leagues and congresses from becoming permanent unions, capable of maintaining internal peace and external defence. Only the Etruscans, the Phœnicians, and the Carthaginian States, as far as we know, effected a union close enough to avert border-wars; still, not close enough to defend them permanently from foreign attack. In fact, all in turn fell by the last cause, except Rome, who at length swallowed up the rest, but merely became in consequence the victim of her own armies.

In the Middle Ages, the very same form of liberty grew up

in every region of Europe, in the municipalities of town or country; and in no other way has any nation, great or small, ever yet been free. But, in modern times, we have superadded the principle of *Representation*, destined to bind together the little communities into a greater whole; thereby escaping the disease which blasted and ruined ancient freedom. To effect this, the local bodies must sacrifice *in toto* their right over War and Peace; and must permanently vest in the central power authority for *such* legislation as appertains to their mutual tranquillity and joint necessary action. In what proportions the legislative power is then shared between the Central and the Local organs, is a question more of detail than of principle; but each must retain a life and strength independent of the other, if Liberty and Union are both to be saved. Such is the legitimate use of Representation; and its greatest practical question is, What are *the least* powers of legislation which will suffice, that the Parliament may fulfil its duty of *uniting and defending* the nation? To yield much more than this, is to cripple liberty on the one side, and on the other to embarrass the State-machine by an infinity of superfluous business.

But because Representation, thus limited, is of the utmost value, and characteristic of modern free nations, people have come to think that to elect Representatives is the chief, the distinguishing, perhaps the *only* business of a citizen—of a freeman! An action performed once in seven years—an action which many educated persons of middling wealth grow grey without ever performing—is emphatically and exclusively called, *THE franchise!* A citizen's other duties are superseded, it seems, and swallowed up in the single business of electing a proxy, even in the local communities; a proxy, to do work of which the freemen are to become unable to judge. They are no longer to legislate, but to elect a town council which settles everything without farther reference to the electors. They are no longer to sit on juries, but (in a *very* liberal constitution) to elect professional judges. As to the right of local legislation, it is wonderful how many forget its value, or would ignorantly desire to see it absorbed in the gulf of a central Parliament. The evil results of this are felt in every town and county among ourselves, ever since the Crown, despairing of opposing the Parliament, commenced the policy of undermining the local institutions which alone kept the Parliament uncorrupt. The same evil results are seen in a magnified form in France, where, since the local freedom has been sacrificed, public liberty has been vainly sought through the Parliaments. M. Rittinghausen discerns the mischief; but is so blind to the cause, that he attacks the representative system as "a relic of feudalism, which ought

to have disappeared *with the Corporations of the Middle Ages*," p. 5. Surely rather we need to reanimate those corporations, as the only form in which hitherto public liberty has proved practicable; the form in which our children of the United States enjoy a tranquillity unknown to restless France. We must put down the usurpations of Representation, restrict it to a legitimate sphere, mark the limits of Local and of Central rights—legislative as well as administrative—and wage inveterate war against *every* form of Absolutism. The despotism of a Populace (which assumes the name of the *People*), if it could possibly be secured against intrigue, would be as fatal to liberty, truth and right, as all other despotisms. And here we must revert to that *Omnipotence* of an elected House of Commons, on which we touched in the beginning.

In the view of many Chartists the House of Lords is a nuisance, which must and will, ere long, be trampled under foot. As for the Crown, it means nothing but the Ministers whom the Commons elect; it may, therefore, be snubbed. All will go right as soon as the House of Commons is visibly Omnipotent, and its elections guided by the points of the Charter. Now, hating despotism in common with our Chartist friends, for that very reason we deprecate lodging Absolute Power in a House of Commons; and if they distrust general reasonings, let them look to the National Assembly in Paris, as an illustration of what *might* be in England. But this leads to an important point, on which we entreat the candid attention of Parliamentary Reformers. Of all Reforms none is more needful than to lessen the business of Parliament—to share its duties and powers—to withdraw from it the functions which it has usurped. By a certain fatality, every Court of Law studies to enlarge its jurisdiction, until it is overwhelmed with business: so does every Royal Cabinet; so does every Parliament. Not one of them, when suffering from the pressure of inordinate occupation, will use the remedy of transferring a portion of their duties to another authority; they prefer to neglect a large part of the work, to be perpetually in arrears, and to do all worse, rather than to yield up power. This reform, therefore, is not to be hoped from the internal acting of the Parliament itself. The incapacity to draw up a law clearly (which M. Rittinghausen imputes to all legislative assemblies), does not depend upon the right of proposing amendments, but on the absurd *details* submitted to a Supreme Legislature, which ought to rule nothing but general principles. In England we are also molested by the intrusion of a pettifogging lawyer-spirit into the wording and interpretation of Statutes, which become worse and worse the more lengthy they are. All this would rapidly die away if Par-

liament were to lay down *principles* only, leaving it to the Local Legislatures and magistrates to apply them in detail. But on this topic a volume barely suffices.

When a Prince has succeeded in centralizing in his own person all the powers of the nobles and commons, he is of course so overloaded with business, that if ever so able and industrious he can do but a small part of what is needed; and in result, the toilsome task is abandoned to ministers, who in the second or third generation rule over their Prince. The same has been the history of our Parliament; which, from being encumbered by its own duties, is forced often to submit to humiliating servitude to the ministers whom it has recommended to the Crown. In each case the injurious despotism has grown up out of a theory of "Sovereignty" (interpreted to be *Omnipotence*), which subdued men's imaginations before it was realized in law. A power which finds nothing to control it, invariably imbibes the haughtiness and recklessness of despotism; nor is it to be hoped that Parliaments will perform their duties well, except in proportion as they learn that they are *not* omnipotent, and that there are other bodies coordinate with them, whose rights they cannot overbear. For the threefold legislature of England we pretend no abstract and philosophic admiration; a practical homage suffices. But in the *local* institutions of boroughs and shires, we see the natural and rightful check to a Supreme Legislature; nor do we expect great benefit from the aggrandizement of the House of Commons until a far stronger life has been imparted to our counties and municipalities. In the scheme of Electoral Districts (which aims at remedying a scandalous evil), the Omnipotence which it might vest in Parliament may be too much overlooked. We do not deny, that, if our local organizations were in high vigour—if seats in their legislature and posts in their administration were sought by highly-educated men—if their meetings were frequent, and their political experience great—they would always be strong enough to resist the encroachments of Parliament. Such is the case with the separate local legislatures of the United States, in contrast with the Congress or the President. But unhappily *our* municipalities of county and town have already been so weakened by the usurpation of their functions and rights, that able and ambitious men disdain to serve them; and though in historical fact and constitutional theory they are the FOUNTAIN of the House of Commons, yet in popular imagination (and especially since the Parliamentary Reform of the Corporations), they are its creatures, depending for existence on its will. Is there not danger that this evil will be increased, if the Electoral Districts have no corporate life, except for the one purpose of electing a

Member? The constituency may stipulate one or two points with their candidate; but this is nearly all that they will be able to do, unless they are brought into frequent conference, and form their judgment in common by corporate action in local legislation and government. Such a constituency, but only such a one, will call its representative to a severe account, if in Parliament he dares to usurp functions which belong to the Local Communities, and not to the Supreme Legislature; and in extreme cases they would be able even to resist and oppose the encroachments of central power.

We have freely expressed our dissent from Messieurs Rittinghausen and Considérant. Nevertheless, we trust that the keen attacks made by these sincere writers on the vices of Parliaments will not be thrown away; and that their theories will be studied by our Radicals of different grades. While we do not believe that it can be expedient to use the masses of the nation as a great voting machine for legislation, we are certain that *public meetings*, appointed by law, *for deliberation and legal action*, are the great moral education of a people, and the only conservators of their true liberty; and that this side of political reform will assume a perpetually-increasing importance, the more it is studied.

ART. VI.—JULIA VON KRÜDENER, AS COQUETTE AND MYSTIC.

Vie de Madame de Krüdener. Par M. Charles Eynard. 2 Tomes. London: Dulau and Co.

OUR great contemplative poet has said,
 “The child is father to the man;”

intimating truly enough that, although the new experiences of life which crowd upon the child in its progress to manhood cause many changes of attitude, they cause no essential change of nature. One shape under many names—*πολλῶν ὀνοματῶν μορφή μία*—one face under many masks—that which we *were we are*. The truth thus broadly stated gains ready assent. No one supposes that the liar will ever become truthful, the revengeful forgiving, the proud humble, the selfish unselfish. An *opinion* may be changed, but not a *characteristic*. And yet, although accepted as a general truth, there is one particular application of it wherein our defective psychology refuses to admit its truth