



ON THE PROPRIETY AND EXPEDIENCY OF UNLIMITED ENQUIRY

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INTRODUCTION†

I know not a question, within the whole compass of human knowledge, so important as the following; nor any subject more talked of and less understood. The Freedom of the PRESS, is a phrase in every man's mouth, but few know in what it consists; nor has it yet been determined, whether in the case of Public questions, religious, moral or political, the Press should be subjected to any or to what restrictions.

In the Republic of France, the news-papers that made more free with the characters and measures of the Executive than the latter thought prudent to permit, have been forcibly and repeatedly suppressed, and the conductors of them severely and tyrannically punished. The most despotic of the French monarchs, were never guilty of more flagrant violations of the rights of the People, than the Republican Directory in these instances.

In England, the question is better understood, and some few

† Authored by Thomas Cooper.

writers have lately hinted at the principles contended for in the following essay; but I am unacquainted with any regular discussion of the subject. The shallow declamation of Mr. Erskine, on the trial respecting Paine's Age of Reason, evidently shews how little the most popular talker on the Freedom of the Press, in that country, understands the cause he has pretended to support; and how much remains to be learnt by men of superior abilities, whose professional duty it has been to search this great question to the bottom.

In this boasted country of light and liberty, knowledge on the subject before us, seems to have gone retrograde. In the Constitutions of the United States, and many of the individual states, the doctrine of unlimited freedom of enquiry seems plainly acknowledged: yet, let any man peruse the farewell address of General Washington, the judicial charges in this state of Pennsylvania on the questions of libel; let him consider the adoption of the British law on this subject, and compare with the Constitution that disgraceful specimen of legislative encroachment, the *sedition law*, and he will agree with me, that the best and wisest men among us may have leaned somewhat too much toward the side of power, and afforded more protection than they ought, for present as well as future cases of popular superstition and public delinquency.

Even while writing the ensuing essay, a speech of Mr. Attorney General Ingersoll, a man respectable for his talents, his situation and his attachment to the cause of freedom, has been published, concluding with a laboured paragraph of plausible declamation, decorated with all the typical attractions of Italic characters and capital letters, more forcibly to impress on the eye and mind of the reader, that "neither government nor officer, nor individual, can resist the fatal effects of slander, without the aid of law." — A sentiment in which he would no doubt have the honour to be joined by the attorney generals of every despotic monarch throughout the world.

The question of slander, with respect to the individual, I have no occasion to touch upon: it is clearly distinguishable from the freedom of enquiry into PUBLIC measures. With the private conduct of individuals, the public have nothing to do beyond the

common operation of law; nor can any good or public-spirited motive be the inducement for exposing the real or fancied defects of private character to the public eye: but in public men and public measures, the PUBLIC has an indubitable interest; and whether the door of investigation, in such cases, should be guarded by the menacing restrictions of penal law, is a question which, though settled by power in practice, still calls for the patriot labours of those who can discuss its theory.

If, therefore, any repetition of sentiment should occur in the following essay, I hope the reader will forgive it, on account of the importance of the question, and its connection with subjects I have already discussed. This apology, however, is not necessary for the first part written by Mrs. Priestley; but it is for the second; composed by myself with the assistance of detached observations, which the family cares of that estimable woman would not permit her to extend or arrange. I sincerely wish she had more leisure to pursue the investigation of subjects, which she is so well qualified to enlighten.

T.C.

PART I.†

There is perhaps no political question so important to the interests of society, as that of *the operation of unrestrained discussion on all subjects whatever*. Governors have, at all times, and in all places, been prone to discountenance it on political questions, and the clergy have induced the same proneness on religious topics. But the situation either of political rulers, or the adherents of clerical hierarchy, by no means secures their judgment from bias, and implicit confidence is hardly due to opinion from this quarter. If, upon investigation, it should appear, that almost every valuable improvement in human society, has originated in discussion, partial and limited as it has hitherto been, and that it is the only permanent source, whence all *future* improvements in knowledge, virtue or

† Authored by Elizabeth Ryland Preistley.

happiness, can be reasonably expected, we shall do well, sedulously to watch over and preserve it, as the most important and inestimable of our rights.

The great object of society—that object for which alone government itself has been instituted, is the *general good*. But to obtain this, we should understand in what it consists; and discover, so far as we can, what are the best means of securing it. This cannot be known by intuition, but must be the fruit of knowledge founded on experience. All reasoning is deduced from facts: we all agree with the poet—“How can we reason but from what we know?”

For judgment, expectation, prediction—every conclusion whatever, can be formed only from what *has been previously observed and known*. Whence has the present age derived its superior wisdom, and superior accommodations to remoter periods, but by improving on the practice, and reasoning from the experience, of former times? *Natural* intellect is not more vigorous or more acute now, than it was in the infancy of society. It has been the multiplication of facts alone, those sole materials of knowledge, that has conferred this pre-eminence.

Most of the evils, indeed all the political evils of life, may be ascribed to ignorance. This prolific source of mischief and misery, has made the mass of mankind, in all countries, insensible to their own welfare, and subservient to the caprice, resentment or ambition of the few; and rendered the page of history little more than the chronicle of war, oppression and calamity. Even virtue, or the active desire to do good, unless directed by knowledge, may produce much evil. Of this, the long and horrid catalogue of religious persecutions affords abundant proof.

It appears, therefore, that knowledge is the most important instrument of human welfare. But it can exist in an eminent degree, and on a stable foundation, only by discussion; and its increase and extension will be proportioned to the *freedom of discussion*.

Knowledge is valuable as it furnishes the means of just conclusions: but as the conclusions from moral and political (I may add religious) propositions, are not self-evident, the more they are discussed and examined, and the more various the points of view in

which they are considered, the greater is the probability that truth will be the result: there is no exploded error, however absurd and pregnant with mischief, that has not been regarded in its day as a valuable truth, and tenaciously defended.

It may perhaps be urged, and plausibly urged, that the welfare of the community may sometimes, and in some cases, require certain restrictions on this unlimited right of enquiry: that publications exciting to insurrection or immorality for instance, ought to be checked or suppressed. Not to dwell upon the difficulty of ascertaining the proper boundary of such restrictions, it may be observed, that opinions palpably false and of bad tendency, will never be generally received, and their promulgation must *eventually* do good. The mass of talents, of knowledge, and of respectability will, in every country, from interest as well as principle, be on the side of good order and morality. There can be few who, from ignorance or design, will be tempted publicly to support opinions inimical to the general welfare; and in cases where it may occur, the investigation that will ensue, and the confutation of such doctrines however plausible (which in the end must take place if they really are unfounded and of mischievous tendency) will establish truth more decisively, than could be effected in any other way. If they appear insidious and less obviously false, we shall do well to remember, that false opinions cannot be suppressed but at the risk of suppressing those that are valuable; for it is only after discussion that their nature and tendency can be known and appreciated. The doctrines of Aristotle have been regarded as inviolable, and the opinions which Galileo was compelled to recant, are now considered as established truths.

It may well admit of question, whether it be safe to entrust any government with a power of this kind. It is one that the public cannot often require to be exercised, but which there may be frequent temptations to abuse; and if the right of government to proscribe the avowal of *one* opinion be admitted, absolute power is in its hands; for the principle once conceded, may be extended to every other which insidious despotism may think fit to hold out as dangerous.

The only test by which opinion *can* be tried, is human reason founded upon human experience, and this can perhaps be exercised with a better prospect of just conclusions, by the people than by their rulers. The immediate interest of the people is to discover and promote the general good: that of governors to extend their own power, or preserve it by the continuance of the present order of things. Should false opinions be propagated, is it probable that the majority of the people (especially if they be accustomed to free enquiry) will be misled by them, and that persons in power only will have the acuteness and discernment to detect their fallacy? But were even this the case, surely the friends of the existing establishment, with truth on their side, and the collateral aids of wealth and power, will have no difficulty in confuting them. It is too often the interest of men in power to discourage discussion, and that in proportion as their conduct is faulty; and it may be taken for granted, that the disposition to discourage it, is always a just ground of suspicion. But the people have nothing to dread from investigation: *they* can derive only advantage from it. Political institutions, moreover, having the most extensive influence on human welfare, and being in their own nature difficult to change or modify, it seems that latitude of discussion is more necessary on this than on any other subject, error having in this case a greater chance of being perpetuated.

Nations emerging from barbarism, might have proscribed all enquiry or examination, that should lead to farther improvement, upon the same pretences that are still used to restrict discussion on topics of politics or religion. They might have alledged, that their present system was superior to any previously known; that it was arrogance and presumption in any one man to pretend to be wiser than all the world; that innovations were dangerous; that it was improper to set people's minds afloat on subjects that the government had already decided upon. On such reasoning, all improvement might have been or might be stopped, at any period of human society. But since all truth has been progressive, who can arrogate the extent of knowledge and comprehension of mind, to pronounce that we have arrived at the ne plus ultra of political perfection, and

that all future steps must be retrograde? After ages may look back on our grade of improvement, as we do on that of our ancestors under Druidical government. Indeed, it is a mark, a decided character, of a barbarous and uncivilized people, to proscribe any deviation from the customs and opinions that usage has sanctioned, and to punish the bold innovator who oversteps the boundaries of national ignorance.

Perhaps it will be said, that while we are going on tolerably well, it is better to be satisfied and keep things as they are, than to hazard a change on any fancied theory of improvement or perfection. But discussion, from the nature of it, will not produce a change, unless it render obvious the utility and desirableness of one. A bad system it may tend to alter; but to a good system it will give permanence on rational grounds. Whatever amendments are required, if the people are enlightened by discussion, and the most important questions placed within the comprehension of all who attend to them, the greatest changes may be effected without tumult or difficulty. Were enquiry free, the convulsions and excesses of revolution, so deprecated by the best friends of liberty, would hardly be known; for the nature and necessity of the change proposed, would be understood through the whole society previous to its taking place; a remark which the example of this country has already illustrated.

Among the most efficient causes of revolutions not accomplished by foreign power, has been *the dread of enquiry and gradual reform*. Abuses in consequence have multiplied, till the government has become so corrupt and necessitous as to produce its own dissolution. Nations have been pillaged by their rulers, till the people, no longer able to support the extravagance that had been wrought into the system of their government, and become essential to its very existence, have found it necessary to take the power into their own hands before they were prepared to use it. This has happened in Spain, in Portugal, in Italy, and in England. Neither in the times of Charles and James were the people sufficiently enlightened for the situation in which they found themselves. Such has been, in some measure, the case in France; and to this perhaps many of the lamentable excesses

attendant on that revolution, and the present instability of their political institutions, are to be ascribed. For though the truth of the general principle of the revolution was almost universally felt and admitted, yet its foundation and extent were well understood by few. But had discussion been previously free, and had sufficient time been allowed for the people to have made themselves acquainted with the principles and consequences of the changes proposed, they would have felt their ground before they acted; and wisdom and moderation would have kept pace with power. The American revolution in its contrast equally confirms this position: the principles of it were investigated and understood by all; and therefore, as far as depended upon themselves, it was effected without much difficulty. The present federal constitution, (a revolution in the very fundamental principles of government), amicably discussed, and peaceably conducted, is an instance still more strongly in point. But this change, as peaceable as it was important, could never have been effected without bloodshed, had not the people been previously accustomed to the unlimited discussion of political topics. After such an instance of the benefit of free enquiry in this country, those can hardly be deemed the friends of the people, who would limit this right in its object, or abridge it in its extent.

The restraints imposed on freedom of speech and writing, are evidently calculated to produce the mischief they ostensibly aim to destroy. While one party assumes a right to suppress the opinions of those who differ from them, and the other experiences a degrading and unjustifiable subjection—violence, ill-will, and rancour must subsist. Governments tenacious of an unaltered existence, would perhaps do well to consider that these restrictions serve only to excite more ardent opposition, and that the irritation of restraint carries men beyond what in other circumstances, they would have thought of. Men are proverbially careless of advantages always in their power; but to raise any object in their estimation, render it difficult of attainment, and they will desire it with increased ardour, and pursue it with ten-fold activity. Mere *liberty* of investigation will not induce this rancorous opposition; the ebullitions of party warmth will evaporate of themselves if left to themselves: but

when once the spirit of enquiry has gone abroad, prohibitions, penalties, and all that fear may dictate to preserve power, are so many manifestations of impotence, and operate only to animate research. If, indeed, it were possible *entirely* to suppress communication of sentiment, the desired end might be accomplished: men would then cease to think, and the human mind would soon degenerate to a level with the brutes.

Nor can any thing be more palpably *absurd* and *unjust*, than to inflict pains and penalties on opinion. It is to punish men for what they could not avoid and cannot voluntarily change. The mind *must* be governed by the evidence presented to it, and of this it has not the choice. To debar a man of the liberty of expressing and enforcing his opinions by argument, if he think it important so to do, is punishment: it is the privation of a power he wishes to exercise, which is granted to one part of the community, and to which he has an equal claim: it is the privation of a power to the good man invaluable, the power of doing good: for, to communicate truth is to do good; and that is truth to every man which his judgment and his conscience approves as such. Force may make men hypocrites, but it cannot act on the understanding to produce conviction; and coercion itself indisposes the mind to the reception of those opinions it would wish to inculcate.

On questions of real importance to the welfare of society, particularly political questions, the common sense of mankind cannot, after deliberate investigation, materially differ. But when one man determines to confine his attention to one side of an object, and another to its opposite, they may differ eternally about its appearance, and their judgments at the same time be equally erroneous.

Had governments always preserved a perfect neutrality as to speculative opinions, and left them to stand or fall by their own evidence, the advances that might have been made toward perfection are incalculable. All the wars and persecutions that have desolated the earth, and exhibited man as more savage and ferocious than the worst species of brute animals, have arisen from the want of diffused knowledge and popular enquiry. No offensive war, I believe, whatever might be the pretext for it, ever conduced to the

good of any nation. Of the numerous and destructive wars in which England has been engaged, had any one of them the public good for its real object? In the wars with France, had they succeeded in placing the Plantagenets on the throne of that kingdom, England would have become a province of France, and the consequence of victory would have been subjection. What good were the people to derive in their civil wars between the houses of York and Lancaster? In supporting the ambitious leaders on either side, what had they to expect but loss of property and loss of lives?

What have been the actual, or what were even the contemplated advantages of *territorial* wars? The people are not deemed competent to judge of their political interests, but let them transfer the common sense of common life to subjects of general policy, and they will wonder that ignorance and cunning have been so long able to keep up the juggle of what is called the abstruse science of politics. In respect to wars of this latter description for instance, they will know that a farmer, who merely to have a large estate, should purchase land at a high price, which he could not render productive, and the expences on which would swallow the profits he derived from his cultivable ground, would be considered insane. Let them extend this reasoning to the subjects in question, and such mad schemes of ambition would soon be at an end.

The murderous hand of *religious persecution* would have been impotent, unaided by the civil power; had governments permitted full scope to the discussion of speculative opinions on points of theological controversy — had they been content to punish Practices detrimental to the public weal, without taking cognizance of Principles, the people would not have been goaded on to mutual destruction, the mad zeal of theological animosity would have expended itself in the productions of the press, and the fires of bigotry and fanaticism, which have deprived the world of some of the wisest, and of multitudes of the firmest and most upright of men, would never have been lighted. Late as it is, we have at length discovered, that freedom from bloodshed on this score, has kept even pace with freedom of enquiry.

In cases where the civil establishments do not interfere, difference in opinion, however unbounded, produces no evil but much good. Physicians differ in their theories of the causes and remedies of diseases—chymists have their phlogistic and anti-phlogistic systems—artists take their models from different schools, but they do not quarrel and fight about their opinions. Their contentions serve only to stimulate industry and accelerate improvement: but let government once interfere, and one man gain, and another lose *by his opinions*, and the common mischiefs of suppressed discussion will inevitably ensue.

Free investigation gave birth to American independence; and is peculiarly congenial with the spirit of a constitution, that on the wise and animating idea of the perfectability of human nature, has made a periodical provision for peaceful and gradual improvement in its political institutions: and the longer impartial discussion shall precede the period of revision and reform, the more secure shall we be of the adoption of wise and well digested plans.

To governments, particularly to good governments—to a government like this, founded upon public confidence, no harm can ensue from the unlimited freedom of *opinion*, while the civil power possesses an undisputed controul over *action*: nor without this freedom of opinion, can we be secure of public tranquillity. We may rest assured from the direct evidence of experience, as well as from the deductions of reasoning, that unrestrained discussion will supersede violence. The temptation to recur to the latter is taken away, while every one is at liberty to employ the former. On the common principle of retaliation, argument will excite argument, and force provoke force. But the empire of reason is calm:—the sword and the faggot—pains and penalties—fines and imprisonments, are not her weapons. She reigns not amid tumult and violence, for in the one her voice will not be heard, and the other her arms will not repel.

PART II.†

Such are the general arguments that may be suggested in favour of unlimited enquiry on all subjects whatever: a right, which, abstractedly considered, there can be no doubt the majority of the American people would readily incline to allow. But some topics have been urged, and some laws have been adopted, even in this free country, that strangely counteract the freedom of discussion we thought ourselves entitled to, and mysteriously shield the characters and conduct of our rulers from the unhallowed attacks of public investigation. I shall state, as fairly as I can, the common topics which are urged to protect the conduct of government (that is, of the citizens whom the people have elected to manage their public concerns) from general enquiry, and suggest the replies to which, in my opinion, they obviously lie open.

It may be said, that the freedom of the press, and the licentiousness of the press, are two very different things: that the liberty of propagating falshood may do as much harm, as the propagation of truth may do good; and that whatever encouragement the latter may deserve, it is surely right, even by penalties and prohibitions, to discourage the former.

It may be said, that rulers in every country are compelled to act from motives, and under circumstances, which it is impossible always to make public; that hence arises the necessity of reposing confidence in them, till time shall develop the motives of their actions: it is therefore injustice toward them, to license injurious accusations that may be founded in so many instances, on imperfect knowledge, even when the motive may be good.

That without respect for governors, and confidence in their conduct, it is impossible for the business of the people to be carried on: that calumnies against governors tend materially to lessen this necessary respect and confidence, and to obstruct the operations of government.

† Authored by Thomas Cooper.

That if calumnious accusations could always be answered, they might perhaps do little harm: but that governors have their time so much occupied by affairs of state, that they cannot attend or reply to the numerous aspersions to which their conduct might be subject, from ignorance, from ambition, from disappointment, or malevolence: that it is unfair, therefore, to put them in a situation to be attacked with impunity, where they have not leisure for defence.

That a good public character is of more consequence to a public man, and of more consequence to the public also, than the private character of any private man: that the characters of our rulers deserve protection, therefore, from their superior importance both to themselves and to the public.

That no person of feeling would submit to fill an office of government, if he were perpetually liable to promiscuous unresented calumny, while he was exerting his best abilities, to benefit the community. Such an irritating situation would tend to exclude some of the best and most capable men, from accepting it.

It may be farther urged, that the privilege of unrestrained discussion of the measures of government, and the conduct of governors, is at least unnecessary in such countries as Great Britain, America, or France; where the constitution recognizes the representatives of the people, as the proper tribunal for the investigation of the conduct of government-officers: a tribunal, which has a right to demand every necessary evidence on both sides of the question—which need not proceed upon half information—which will hear deliberately the defence as well as the charge—and which decides upon a fullness of evidence that the public at large could no otherwise obtain.

That at all events, however allowable, or even desirable, would be such an uncontroled licence of discussion in an Utopian state of society, where the mass of the people might have sufficient leisure to examine, and sufficient knowledge to understand, what might be offered to the consideration of the public, yet, in the actual state of society, which in all probability will never be much altered, the mass of the people, in every country, are necessarily ignorant and bigotted; guided by their passions and prejudices, and not by cool

reasoning or the result of patient investigation. That this cannot be expected from them, and therefore all attempts to excite their passions and their prejudices against their governors, and against measures they cannot understand, is an unfair advantage taken of the multitude, which it is the duty of government to guard them from. That, in fact, all governments (even the American and French republics) have found it necessary to put such limits to political discussion, as should prevent popular tumult from being excited, by an appeal to popular prejudice. That in this most republican country, the western insurrection, and the riots in Northampton county, have proved the absolute necessity of the restriction contended for.

That although violent declamation, or fallacious argument, may break no bones, they are the parents of tumult; they excite to disturbance; they endanger internal tranquillity, and sometimes external safety. Nor can government pay due attention to these most important objects, without keeping a check on the means by which they may be shaken.

That permitting the truth of the facts, of which a public officer is accused, to be given in evidence on the trial of the author or publisher, is a sufficient guard to freedom of enquiry, and a sufficient check on the officers of government. Nor ought any man to claim the privilege of accusing another, before the tribunal of the public, without being able to substantiate his charge.

Such are the arguments of those who are unfriendly to unlimited enquiry on political subjects. I have stated them as fairly as I am able, and shall proceed to reply to the substance of them. Some obvious objections, however, apply to *the whole* of these arguments, which it may be proper to state in the outset.

It cannot escape the most careless observer, that prohibition of enquiry implies a dread of it; and that the conduct, whether past or intended, which produces a dread of investigation, furnishes a decisive argument in favour of its necessity. It has long ago been observed, that men love darkness rather than light, because their deeds are evil.

Again. The arguments above stated, are equally cogent in the mouth of a despot, or the well-intentioned governor of a free people. They are precisely the arguments that a bad governor would urge to cast a veil over his designs or his conduct. Admit their validity, and freedom is no more; for tyranny might encroach without controul, if those who saw into the tendencies of its measures, were prohibited from exposing them. To the permission of giving the truth of the facts in evidence, I shall reply specifically; it hardly touches these preliminary observations.

Again. Had these doctrines been completely enforced at the commencement of the American revolution, that revolution could never have taken place; for all investigation of the *right* of Great Britain to tax her colonies, would have been punished as an improper appeal to the passions and prejudices of a misguided, half-informed multitude.

Again. Each of these arguments takes away the privilege of political opinion from the mass of the citizens: for to what purpose entertain an opinion, if it be libel to communicate it? How correct an erroneous opinion but by mutual communication or discussion? Yet the sedition law of this country, founded upon considerations such as I have stated, makes it libel to write or to utter any sentiments that may tend to bring into contempt the President or Members of Congress; yet, if we express disapprobation of their conduct, it necessarily tends to bring them into contempt. How, then! are we to express nothing but approbation whatever their conduct may have been, or whatever we may think of it? Surely this denunciation against giving or receiving information, is the true way to induce the people to act upon the half-information complained of. Is it not evident, beyond contradiction, that this doctrine is palpably calculated to protect delinquency?

Again. A good representation is the exact copy, the impression, of the sentiments and feelings of the nation: but unless perfect freedom of discussion, both of public opinions and public conduct be allowed, how can the representatives be assured whether they express the sentiments of the people or not? Unless the real or supposed aberrations from duty in the conduct of those whom the peo-

ple appoint, be freely canvassed, how can it be known whether they have acted in conformity to the common will or not? Unless this freedom of investigation be indulged, how can an elector discover upon what grounds to re-elect or to reject the person whom he contemplates to represent his opinions, and supply his place?

Again. In England, and in this country, the right of the people to petition and remonstrate—to express their sentiments on public measures by memorials to their representatives, is allowed, or pretended to be allowed: but if previous and free discussion be prohibited, this right can never be competently exercised, and will soon be abrogated or denied.

Again. If a citizen has no right to discuss political conduct or opinions before he becomes a representative, he will be but half-qualified for his situation. In proportion to the general freedom of discussion that obtains among the public, will the citizens who are chosen to that important office, be competent to the situation they are to fill. If it be said that every citizen need not be an author, I grant it; but if every citizen have not the liberty of writing and speaking on political subjects for the information of his fellows, there will be neither authors nor readers; and electors and elected will exercise their respective jurisdictions, equally ignorant and blindfold.

Again. Wherever it is universally acknowledged to be necessary, and where it is the real object to come at truth, the most unlimited enquiry is allowed for that purpose; and all the considerations I am now opposing, are systematically contravened. Thus, in the British parliament, on the floor of Congress, in our houses of state representatives, the utmost latitude of investigation and accusation, is expressly given and protected. The necessity of it is seen and acknowledged. Why therefore, should not the same latitude be allowed to the public at large, whose object is the same? We declare that a legislator shall not even be questioned *out* of the house, for any sentiment or expression he may use *in* it; so important do we consider this unlimited freedom of discussion to the attainment of truth in fact, and truth in opinion. So, also, in our courts of justice, the utmost licence of observation even on character is allowed, if it

arise from any suggestion in the brief, or any fact in evidence. How inconsistent then with the acknowledged necessity of unrestricted enquiry, are the arguments I am opposing, and the laws to which they have given birth! unless, indeed, it be contended, that the high privilege of arriving at truth should be confined to Members of Congress and state legislators, as too precious to be communitied to the ignorant herd of our own country, or the swinish multitude of Mr. Burke.

Again. All the evils objected to unlimited enquiry are partial and transient: they bear no proportion, either in magnitude or duration, to the benefits that arise from the right we contend for. Nor can any good be expected in the present state of things, unaccompanied with more or less inconvenience. It is the balance of advantage, the excess of one above the other, that should determine our conduct.

In short, how can we better promote the cause of ignorance, and of despotism, than by limiting freedom of enquiry, and making public delinquency sacred? One or two acts of improper conduct in the servants of the people, designedly or undesignedly committed, might be checked by the expression of public opinion among their constituents, if it be permitted freely to discuss that conduct: but impunity will be an effectual shield to imbecillity and knavery; and public delinquents, under the comfortable protection of the doctrines in question, may proceed in safety from error to error, from crime to crime, till the deluded people fall a sacrifice to their own supineness.

To all these general objections are the arguments I have stated against the right of unlimited enquiry on political subjects, and the unlimited scrutiny of *public* characters, clearly liable. With the *private* conduct of individuals the public have nothing to do. Those and those only who are interested in a man's conduct, have a right to examine it. In the public conduct of public men, the PUBLIC are interested, and the principles on which our sedition law is founded, are most strangely advocated in this elective country, where it is impossible to ascertain whether a man ought or ought not to be

chosen, if this privilege be not given. But I proceed to the *particular* objections.

I. The propagation of falsehood is as injurious, as the propagation of truth is beneficial.

No. The evils that arise from the propagation of falsehood are transient; when the falsehood is detected they cease: the way to get rid of these evils is to permit discussion, that falsehood may be the sooner detected. The good derived from truth, is permanent as truth itself.

Again. Who is to be the judge of truth or falsehood? The law-givers who sedulously screen their own conduct from the public eye? If those who arrogate the right to decide on the truth or falsehood of opinion (for of facts we will speak presently) are liable to be mistaken, do they not deal out their punishments in the dark? And who can pretend to political infallibility?

Again. No error can be forcibly suppressed but at the hazard of suppressing truth also. Galileo was imprisoned. Locke was interdicted in an English university. Common Sense was sedition in America, and the Rights of Man are sedition in Great Britain. In how many countries was the perusal of the Bible prohibited?

II. Governors may act from motives not publicly known and not proper to be publicly communicated.

I would observe, that the more we understand of the science of government, the less necessity we find for governmental secrets. State-craft and priest-craft are fond of hidden mysteries: they delight in their esoteric and exoteric doctrines and measures; but hidden motives are always suspicious in a republican government. In such a government, so far as we have experienced, secrecy is the child of misconduct and the parent of mischief. Let any man consider the treaties of Pilnitz and Pavia, or read Monroe's View of the conduct of the Executive, and, comparing it with our present situation, form his own opinion on this subject. Where a statesman chuses to conceal his motives, it is at least an equal chance that he is *afraid* to disclose them, as that he *ought not* to disclose them.

The cases where secrecy is expedient are very few: they occur but rarely; and unless there be something apparently wrong, or

some good reason for previous distrust, the people generally (far too generally) acquiesce without suspicion. The objection, therefore, amounts at the most to an exception only of small extent, to a general rule. Nor can a right of so much consequence as the right contended for, be overthrown by a few cases of possible inconvenience, and even these of so dubious a complexion.

III. Respect and confidence in our governors are necessary for the business of government to be carried on with effect.

Where respect and confidence are really due from having been earned, the public is never backward at paying them; on the contrary, the people are notoriously apt to err on the opposite side, and to pay an exuberance of homage approaching to adulation, where there exist the evidences of public merit. Had Washington, has Buonaparte, any reason to complain on this score? Do not the silly idolaters that compose a British mob, harness themselves like brutes to the carriage of a popular character? Have not Mr. Pitt and Mr. Fox their respective adorers equally devoted and blind? It is evident, then, that respect and confidence will be cheerfully paid where they are due; but ought they to be paid where they are not due? And how can it be ascertained whether they are really due or not, unless by means of perfect freedom of discussion of those characters to which they are said to be due?

IV. Governors have not leisure to answer calumnious accusations, however false and ill-founded they may really be.

In every government where the people, from having a due share in it, feel interested, as they really are, in every measure of their rulers, there will always be two parties among the public. There always has been, and therefore we have a right to say it is probable there always will be, some who defend against those who attack the conduct and characters of men in power. There is no fear, therefore, of the prevalence of unmerited or unrefuted calumny. Besides, unless the proofs of delinquency are glaring, the public are never influenced by general charges, by declamatory accusation, or by mere party appeals. In proportion to the freedom with which these are permitted, they do the less injury to those who are exposed to them. Moreover, is it not always in the

power of governors, to procure able persons to state the truth to the public, and prevent any long continued mistake or deception?

V. The public characters of men in high situations, are of more importance to the public, than private character is to private individuals.

Granted. But a good public character should be founded upon integrity and ability: it should not be given if it be not deserved. Nor can that character deserve well of the public which will not bear public investigation. Whether it be merited or not, can only be known by such an investigation, if there be any circumstance of doubt.

VI. The right of unlimited discussion, or rather accusation, would tend to exclude valuable men from public offices: for they would be cautious of exposing themselves to situations of unmerited calumny.

Every situation has its peculiar advantages and disadvantages, which arise from the same source, and are generally proportionate to each other. Elevated stations attach distinction and celebrity, but in cases of real or supposed dereliction of duty, they incur a proportionate degree of reproach and obloquy. The man who enjoys the one, must run the risk of the other. Indeed, persons in these cases seem prone enough to think the former, a sufficient compensation for the latter; nor do we find that offices of profit or of honour are frequently rejected from this refined delicacy.

Ingratitude is not a vice common to the public mind; but excessive, unreasonable gratitude and veneration of high civil rank, is a weakness to which in all ages it has been peculiarly prone. Aristides, it is true, was banished, and Socrates put to death; but the annals of every nation testify, that while a single meritorious act in a prince or magistrate, will often excite veneration approaching to idolatry, a thousand instances of the wanton abuse of power—of arbitrary and oppressive conduct, have passed unnoticed.

VII. An appropriate tribunal for the investigation of public misconduct, is provided by the constitution of Great Britain, and of this country, and therefore the right contended for is unnecessary. It is sufficiently vested in the houses of legislature.

In the first place, the right of investigation is not exclusively vested in the legislature of either country, but conjointly belongs to the people at large, according to the acknowledged constitutions of both. The right of *impeachment*, so as to induce actual punishment, does indeed belong to the legislative tribunals, but the freedom of the press includes at least the freedom of enquiry into public delinquency.

In the next place, every citizen of a free government is as much interested as a legislator, in the public conduct of public men; and therefore ought not to be precluded from expressing his opinion where his interest is equally concerned.

Thirdly, many topics and remarks may occur to intelligent writers on public measures, who are not legislators, that may not occur to those who are. This is so notoriously the case, that the expediency of permitting the public at large to discuss political topics, has never been openly denied in any free government, but it has always been indirectly attacked by its opposers with plausible and insidious restrictions.

Fourthly, How are the people in a representative government, to judge of the respective merits of those whom they are to reject or appoint to public situations, if the liberty in question be not granted? The political merits or demerits of public characters, cannot be known without this liberty. And in proportion to the general exercise of it, such will be the general diffusion of knowledge; and of course in such proportion will the electors be qualified to choose, and the persons chosen, to act, with superior discernment and ability. A nation thus generally enlightened on public topics, must derive advantages in her public career, that never could be obtained where the jealousy of despotism, or public ignorance, or national prejudice, has obstructed this grand source of all human improvement.

We may urge, fifthly, that experience has shewn, there is room for the question, *Quis custodiet ipsos custodes?*[†] Do the elected guardians of public liberty never require watching? We have

[†] "Who watches the watchers themselves?" JUVENAL, SATIRE VI, at 346–48.

heard of venal commons, and corrupted representatives; nay more, we know them to be possible evils. It may sometimes be made the interest of these representative tribunals to screen, instead of to punish delinquency; and they may sometimes think it right to place artificial ramparts even round their own characters, against the attacks of public enquiry. It may be their interest, or the interest of some of their leaders, to deceive the people; but it never can be the interest of the people to deceive themselves. Upon the servants of the public, in whatever situation, there is no effectual check but public opinion: this can never be well grounded, but on public investigation, on perfect unrestricted discussion. Hence all the eulogia of patriots of every enlightened country, on the freedom of the press; and hence the pertinacious never-ending attacks, open and concealed, plausible and daring, of governors in every age and in every nation, against this grand safeguard of public liberty, this scourge and terror of public delinquency. Experience has presented us with no truth more confirmed or important, than that from the moment a man in public trust begins to talk about the licentiousness of the press, and sacredness of public character, he is to be suspected. *Hic niger est, hunc tu Romane caveto.*[†]

VIII. The mass of the people are, and always will be ignorant, and therefore we ought not to permit their prejudices to be worked upon by designing men. Witness the Western insurrection and the Northampton riots.

The most effectual way to keep the people ignorant, if they are so, is to perpetuate those restrictions on freedom of enquiry, which this objection is intended to support. Diffuse knowledge—enable the people to read, and incite them to think, and the objection is done away: they are no longer Mr. Sedgwick's ignorant herd, or Mr. Burke's swinish multitude. I know, and allow, that the modern doctrines of the perfectibility of man, can never take away the necessity

[†] HORACE, 1 SERMONS IV, 80–85. The complete original sentence reads, “Absentem qui rodit amicum, qui non defendit, alio culpante; hic niger est; hunc tu, Romane, cavetto” (He who attacks an absent friend, or who does not defend him when spoken ill of by another; that man is a dark character; you, Romans, beware of him).

of human labour, or make every blacksmith a Newton; but every man may and OUGHT to be taught to read, to write, and to be familiar with the common operations of arithmetic: he ought to have the *means* of knowledge put in his power; nor does any station imply, of necessity, such unremitting labour as not to afford some leisure to make use of these means. The country where this unremitting labour is necessary to the comfortable subsistence of any class of the community, is a bad one; in some shape or other there is despotism in it. The country where every man and woman cannot read and write, has reason to complain of its rulers. These truths require no defence in the present day, however they may be neglected, and in this country shamefully neglected, in practice. The objection then destroys itself; if the people are ignorant it is for want of the general diffusion and practice of the truths which discussion would bring incessantly into view. And when it is considered that the cautious opinions of philosophers of half a century ago, are now common axioms, especially on political subjects, the argument from ignorance can be of little weight.

As to the Western insurrection, and the riots in Northampton county, much as was made of them at the time, and most grossly as they have been exaggerated, they would never have happened at all, if reasoning and argument, if fair representation and mild and conciliatory remonstrance, had been sufficiently the precursors of military force. But that military force has taught the people to think as well as to obey, and in those counties where its effects have been experienced, there are few indeed so ignorant, as not to feel the extreme importance of public investigation, unlimited by the powerful jealousy of those whose conduct is obnoxious to it.

It is the general diffusion of knowledge—it is free discussion, that eradicates the prejudices of the people: a prejudice, or prejudice, is a view of one side of a question, and an opinion formed and acted on from this partial view, before all the facts and arguments that may be conveniently obtained, are fairly considered. It is self-evident that the right we contend for is the cure of prejudice. In like manner, people will be governed by their passions, if they are not governed by their reason. What is the cure for *this* evil?

Surely to call their reason into play—to incite them to reflect—to teach them that every question has two sides—that as their neighbour is not infallible, so neither are they. In short, to accustom them to free enquiry on all subjects.

In a government in which the people have a voice—in all governments not completely despotic, it will surely be allowed that some knowledge is requisite in the people at large. The better they are informed, the more readily may they be expected to approve and acquiesce in wise measures. Ignorance, we grant, is the certain parent of error and obstinacy, nor can there be a more effectual means of removing it, than the free exercise of the right in question. If the complaints of the multitude, be they well or ill founded, are forcibly suppressed, there is danger: for people will think, though they may be prohibited from speaking; and sometimes they will act: but in nine cases out of ten, let the ebullitions of political opinion evaporate as they arise, and they will not acquire force enough to justify apprehension.

IX. An author is sufficiently protected where he is permitted to defend himself, as in this country, by giving in evidence the truth of the facts stated.

This is not a sufficient protection; for, a public fact may be notorious, and yet strict legal proof almost impossible to be procured by an individual. Suppose it commonly known and believed in England, that Lord Hawkesbury has declared there is a British party in this country; or that such a sentiment were expressed in a report of the council, how could an author here bring forward legal evidence of the fact?

Secondly, The expence of producing such evidence, even where it could be obtained, is sufficient to discourage any author from stating a known fact, where the purse of the government is to be employed against him. Suppose I were to assert, that Mr. Pickering wrote a letter to Judge Bee, stating that it was the advice and request of the President that Jonathan Robbins should be given up to the British, must I not (legally speaking) resort to Carolina or to Braintree for evidence, should the President be gone home?

Thirdly, This liberty still leaves *opinion* open to punishment. We cannot draw conclusions with impunity, if they tend directly or indirectly, in the cautious language of our sedition law, to criminate the persons whose characters are sheltered by that law.

For the investigation of public characters and measures, I think no action for libel ought to be permitted: but if it must, the accused should have the right of producing, unchecked by the court, any evidence whatever, that he may think will prove his case; and the jury should have the right of determining what weight is due to it.

After all, the most cautious must acknowledge, that public officers ought to be amenable to those they serve; and that public opinion is a salutary check on those who guide the helm of state. What should we think of an agent who forbid his employers to examine his accounts, or scrutinize his conduct, in cases where their interest was materially concerned, and respecting the business they had entrusted to his care?

Every page of history attests the proneness of mankind to abuse power; and if the conduct of governors be not to be open to investigation and reprehension, room is left for the introduction of every abuse. What avails a good constitution, if the spirit of it may be counteracted, and its essential principles infringed with impunity, by those who administer it? Nor are the people in any country addicted to suspicion or unreasonable complaint; on the contrary, it is well known they will bear much, before they have recourse to opposition. In all the struggles of the English against the extension of prerogative, from the earliest period of their history to the present time, do we not in every instance wonder that oppression could proceed so far unresisted? Will any person contend that there was not abundant reason for complaint whenever they did complain? and yet the English have been more remarkable for their tenacious jealousy of liberty than any other modern nation, and would consequently have been particularly prone to this kind of excess.

But men will in time be persuaded that the cautious jealousy of persons in power, here as well as elsewhere, lest the freedom of the press should degenerate into licentiousness, is founded much more upon considerations of their own interest and safety, than

the interest and safety of the public: it is not usually the people who encroach on the rights of their governors, it is the encroachment of the latter that history points out as the object of dread. Every day's experience brings some new proof of this; and the citizens of a free state should be at least as jealous and tenacious of their rights as their servants are of their own characters.

ADDENDUM†

As the subject of the preceding essay appears to me so important as to deserve to be placed in every possible light, I add some arguments on the general question, somewhat enlarged, from the preface of a volume of essays which I published in 1789.

The opinions which I myself have adopted are far from being popular; and I am aware that some apology may be expected for the freedom with which I have advanced them; but I am not prepared to make any. I have sought carefully for truth, and I have endeavoured freely to communicate it to others; herein, I do not think I have done more than by right I might do, and by duty I was bound to do. If my opinions happen to be singular, the fault is not mine; no man can command his own judgment or prevent the effect of such evidence as occurs.

Neither do I see why opinions should be concealed, however singular, or however *apparently* dangerous. They are either true or false; if *true*, they ought to be propagated as tending to the good of mankind; and as that is true to every man which appears to him to be so, every man is bound to propagate his opinions whatever they may happen to be, if no obstacles of private consideration interfere.

That the propagation of truth is upon the whole of benefit to mankind, though partial evils may possibly arise from it, is a point too well established by the general tenor of the history of human knowledge, to admit of doubt; and as there is no infallible judge of truth, each man must decide for himself in the first instance, and

† Authored by Thomas Cooper

put in his claim to the discovery before the tribunal of the public, in common with those who chuse to exercise the same equal right.

But should his opinions be *false*, still it *may* be of importance and *can* be of no detriment that they should appear. At all events the greater is the chance of settling the point in question, and of striking out collateral knowledge during the discussion.

False opinions may be either urged so plausibly as to deserve confutation, or so weakly as to need none. In the former case it is of importance to the public that they should be promulged and effectually confuted; and in the latter case there can be no objection to their publication because they can do no harm. Indeed whether an opinion has a good or an evil tendency cannot be told until it be published; so that the objection in question must always be premature.

Indeed, although it be of great importance to the moral character of an individual that he should not attempt to propagate any opinions but such as appear to him to be true, it is in general of very little moment to the public, whether they are presented with a defence of truth or error, especially in abstract and speculative disquisitions, provided the subject be so handled as to deserve consideration and excite enquiry. For an erroneous opinion urged so plausibly as to excite general attention, in all cases accelerates the adoption of truth, and in many far more that when the latter is advanced absurdly or defended weakly. Nor indeed can any well founded hypothesis be regarded as thoroughly established, till the opposite opinions, and all the objections have been urged as forcibly and as plausibly as the nature of them will admit. Nor can this be so well done as by those who really and conscientiously maintain the erroneous opinion, and have full liberty to state and defend it in their own way.

Truth, when thoroughly discussed, will never fail to come like tried gold out of the fire: like Ajax, it requires nothing more than day-light and fair play.

HOM. IL. XVII. 46.