

# ジョン・ステュアート・ミル

## 『代議制統治論』 自筆草稿

——第12章と第13章（翻刻）——

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日本大学図書館法学部分館（法学部図書館）は、ジョン・ステュアート・ミル（John Stuart Mill. 1806-1873）の『代議制統治論』自筆草稿を所蔵している。私たち著者は、前稿に引き続き、本草稿の翻刻に取り組んでいる。本稿で翻刻されるのは、『代議制統治論』第11章と第12章である。

第13章の題名は草稿では「代議制という国制において、議会は2つ存在すべきか1つだけ存在すべきか」（Ought there to be two or only one House of Parliament in a representative constitution ?）であるが、出版に際して「第二院について」（Of a Second Chamber）へ変更されている。

翻刻に際して、翻刻文に下線が引かれているものは、ミル本人によって下線が引かれていることを表している。翻刻文に二重の下線が引かれているものは、私たちが翻刻できなかったものを、灰色に着色されているものは、いまだその翻刻に確信が持てないものを表している。（ ）で示された部分はミルによるもの、[ ] で示された部分は、筆者たちが補ったものである。

凡例

- 下線：ミル本人によって引かれた線
- 二重下線：筆者たちが翻刻できなかった単語
- 灰色部分：翻刻に確信が持てない単語
- ( )：ミル本人が記したもの
- [ ]：筆者たちが補ったもの

**Bibliography** : [Considerations on Representative Government]. [s.l.] : [s.n.]. [1860]. Untitled autograph manuscript. 228 leaves in 11 [A to K] quires. A quire: 24 leaves, B quire: 24 leaves, C to J quire: each 20 leaves, K quire: 20 leaves (7 leaves blank).

私たちのこれまでの翻刻結果、および原典と草稿との対照は、以下の表のとおりである。

表1 掲載誌／Journals

Preface	「ジョン・ステュアート・ミル『代議政治論』自筆草稿——序言と第1章（翻刻）——」『法学紀要』60巻、2019年 John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." Transcription of Preface and Chapter 1. <i>HOGAKU KIYŌ</i> . Vol. 60. 2019. <a href="https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_60.html">https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_60.html</a>
[Ch.1] To what extent forms of government are a matter of choice	
[Ch. 2] The Criterion of a good Form of Government	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第2章と第3章（翻刻）——」『政経研究』56巻4号、2020年 John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." Transcription of Chapter 2 and 3. <i>SEIKEI KENKYŪ</i> . Vol. 56(4). 2020. <a href="https://www.publication.law.nihon-u.ac.jp/political/political_56_4.html">https://www.publication.law.nihon-u.ac.jp/political/political_56_4.html</a>
[Ch. 3] That the ideally best form of government is representative government	
[Ch. 4] To what society representative government is inapplicable	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第4章と第5章（翻刻）——」『政経研究』57巻1号、2020年 John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 4 and 5. <i>SEIKEI KENKYŪ</i> . Vol. 57(1). 2020. <a href="https://www.publication.law.nihon-u.ac.jp/political/political_57_1.html">https://www.publication.law.nihon-u.ac.jp/political/political_57_1.html</a>
[Ch. 5] What are the proper functions of representative bodies	
[Ch. 6] Of the Infirmities & dangers to which representative government is liable	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第6章と第7章（翻刻）——」『政経研究』57巻2号、2020年 John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 6 and 7. <i>SEIKEI KENKYŪ</i> . Vol. 57(2). 2020. <a href="https://www.publication.law.nihon-u.ac.jp/political/political_57_2.html">https://www.publication.law.nihon-u.ac.jp/political/political_57_2.html</a>
[Ch. 7] Of True & False Democracy; the representation of all, & the representation of the majority only	

[Ch. 8] Of the extension of the suffrage	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第8章と第9章（翻刻）——」『政経研究』57巻3号、2020年
[Ch. 9] Should there be two stages of election ?	John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 8 and 9. <i>SEIKEI KENKYŪ</i> . Vol. 57(3). 2020.
[Ch. 10] Of the mode of voting	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第10と第11章（翻刻）——」『法学紀要』62巻、2021年
[Ch. 11] Of the duration of Parliament	John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 10 and 11. <i>HŌGAKU KIYŌ</i> . Vol. 62. 2021.
[Ch. 12] Ought pledges to be required from members of parliament ?	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第12章と第13章（翻刻）——」『政経研究』57巻4号、2021年
[Ch. 13] Ought there to be two or only one House of Parliament in a representative constitution ?	John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 12 and 13. <i>SEIKEI KENKYŪ</i> . Vol. 57(4). 2021.
[Ch. 16] Of Nationality, as connected with Representative Government	「ジョン・ステュアート・ミル『代議政治論』自筆草稿——第16、17、18章（翻刻）——」『法学紀要』61巻、2020年
[Ch. 17] Of the government of dependencies by a free state	John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." Transcription of Chapter 16, 17 and 18. <i>HŌGAKU KIYŌ</i> . Vol. 61. 2020.
[Ch. 18] Of Federal Representative Governments	<a href="https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_61.html">https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_61.html</a>
川又祐「J.S. ミル『代議政治論』自筆草稿（日本大学法学部図書館所蔵）について」『政経研究』52巻2号、2015年 Kawamata, H. "John Stuart Mill's Autographed Draft Manuscript Considerations on Representative Government in the Nihon University College of Law Library." <i>SEIKEI KENKYŪ</i> . Vol. 52(2). 2015. <a href="https://www.publication.law.nihon-u.ac.jp/political/political_52_2.html">https://www.publication.law.nihon-u.ac.jp/political/political_52_2.html</a>	

表2 ミル『代議制統治論』対照表／A comparison between the manuscript and the first edition of *Considerations*

帖・紙葉	自筆草稿章題	原典初版章題
A_002-013	To what extent forms of government are a matter of choice.	Ch.1. TO WHAT EXTENT FORMS OF GOVERNMENT ARE A MATTER OF CHOICE.
A_014-024～ B_001-008	The Criterion of a good Form of Government	Ch.2. THE CRITERION OF A GOOD FORM OF GOVERNMENT.
B_009-022	That the ideally best form of government is representative government	Ch.3. THAT THE IDEALLY BEST FORM OF GOVERNMENT IS REPRESENTATIVE GOVERNMENT.
B_023-024～ C_001-009	To what societies representative government is inapplicable	Ch.4. UNDER WHAT SOCIAL CONDITIONS REPRESENTATIVE GOVERNMENT IS INAPPLICABLE.

C_010-020～ D_001-002	What are the proper functions of representative bodies	Ch.5. OF THE PROPER FUNCTIONS OF REPRESENTATIVE BODIES.
D_003-018	Of the infirmities & dangers to which representative government is liable.	Ch.6. OF THE INFIRMITIES AND D A N G E R S T O W H I C H REPRESENTATIVE GOVERNMENT IS LIABLE.
D_019-020～ E_001-013	Of True & False Democracy; the representation of all, & the representation of the majority only.	Ch.7. OF TRUE AND FALSE DEMOCRACY; REPRESENTATION OF ALL, AND REPRESENTATION OF THE MAJORITY ONLY.
E_014-020～ F_001-011	Of the extension of the suffrage.	Ch.8. OF THE EXTENSION OF THE SUFFRAGE.
F_012-020～ G_001	Of the mode of voting.	Ch.10. OF THE MODE OF VOTING.
G_002-004	Of the duration of Parliaments	Ch.11. OF THE DURATION OF PARLIAMENTS.
G_005-011	Ought there to be two or only one House of Parliament in a representative constitution ?	Ch.13. OF A SECOND CHAMBER.
G_012-020～ H_001-003	Of local representative bodies.	Ch.15. OF LOCAL REPRESENTATIVE BODIES.
H_004-017	Of the Executive in a representative government	Ch.14. OF THE EXECUTIVE IN A REPRESENTATIVE GOVERNMENT.
H_018-020～ I_001-006	Of Nationality, as connected with Representative Government	Ch.16. OF NATIONALITY, AS C O N N E C T E D W I T H REPRESENTATIVE GOVERNMENT.
I_007-017	Of Federal Representative Governments.	Ch.17. O F F E D E R A L REPRESENTATIVE GOVERNMENTS.
I_018-020～ J_001-012	Of the government of dependencies by a free state.	Ch.18. OF THE GOVERNMENT OF DEPENDENCIES BY A FREE STATE.
J_013-019	Should there be two stages of election ?	Ch.9. SHOULD THERE BE TWO STAGES OF ELECTION ?
J_020～ K_001-012	Ought pledges to be required from members of parliament ?	Ch.12. OUGHT PLEDGES TO BE REQUIRED FROM MEMBERS OF PARLIAMENT ?
K_014	Preface.	PREFACE.

# John Stuart Mill's Autographed Draft Manuscript “Considerations on Representative Government.” A Transcription of Chapter 12 and 13.

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Atsushi YOSHINO  
Yusuke ARAI  
Thomas LOCKLEY

Nihon University College of Law (NUCL) Library houses a John Stuart Mill's autographed draft manuscript of “Considerations on Representative Government” ca. 1860. This time, we, 4 authors transcribe the chapter 12 and 13 from it.

When Mill published the book, the title of chapter 13 was changed “Ought there to be two or only one House of Parliament in a representative constitution?” to “Of a Second Chamber.”

The underline is written by Mill himself. Regrettably, the double underlined parts are the words which we couldn't transcribe. Words about which we are unsure are gray colored. Parentheses ( ) are by Mill. Brackets [ ] are by us.

Bibliography : [Considerations on Representative Government]. [s.l.] : [s.n.], [1860]. Untitled autograph manuscript. 228 leaves in 11 [A to K]

quires. A quire: 24 leaves, B quire: 24 leaves, C to J quire: each 20 leaves, K quire: 20 leaves (7 leaves blank).

J\_020 to K\_001-012. [Chapter 12]

J\_020

Ought pledges to be required from members of parliament ?

Should a member of legislature be bound by the instructions of his constituents ? Should he be the organ of their sentiments or of his own ? their ambassador to a congress, or their professional agent, to judge for them what should be done as well as how

to do it ? These two theories of the duty of a legislator in a representative

government have each its supporters ; & each is the recognized theory of some representation constitutions. In the Dutch United

Provinces the theory of the constitution was that the members of the States General were mere delegates ; so much so that when a question of any importance arose which had not been foreseen in their

instructions, they had to refer back to their constituents, neither more nor less than an ambassador dose to his government. In this country & most others which possess representative constitutions

law & custom warrant a member of parliament in voting according

to his own opinion of rights, though it may be opposed to that of his constituents ; but there is a floating notion, of the opposite kind

which has a considerable practical effect on many minds, even among members of parliament themselves, which makes them often feel

bound in conscience, independently of the interest of their popularity & their reelection, to make their public conduct, on some or on all

occasions, the expression rather of the opinion of their electors than of their own. Which of these two notions of the duty of a representative is the just one ?

It is evident that this is fundamentally not a question of constitutional law, but of what may properly be called constitutional morality. It relates not to institutions, so much as to the state of mind which the electors & their representatives should cultivate, the ideas which should prevail as to the mode of carrying the institutions in to effect. For, let the system of representative be

[J\_020 verso blank]

K\_001

**K**

what it may, it will be converted into a system of mere delegation if the electors are so <sup>(1)</sup> \_\_\_\_\_. By refusing to elect any one who will not first pledge himself to all their political opinions, or even (if they think fit) to a precious consultation with them before giving any important vote on a subject not foreseen) they may reduce their representative to their mere mouthpiece, or at least compel him in honour, when he is no longer willing to be their mouthpiece, to resign

his seat. And since they have the power to do this, the theory of the constitution ought to suppose that they will be inclined to do it ; since the very principle of constitutional government requires that it should be assumed, that all political power will be used to promote the private purposes of the holder ; not because it always is so, but because the case of its being so must be as fully prevented against as if it were certain to happen. However

wrong, therefore, whenever **unwise** we may think it in the electors to consider & treat their representative as their mere delegate, that perversion (if so it be) of the electoral privilege being a natural & probable

one, **our** representative institutions must be framed as if it were certain : must be so arranged that if the electors do require that their representative shall be their mere delegate, they shall not be able, by that means, to **practice** class legislation for their own supposed benefit.

Questions of constitutional morality however are of no less **practical** importance than those relating to the constitution itself. The constitution

being given, its working depends always, its existence often, upon the traditional notions existing in the minds of the various authorities as to the

**spirit** in which they ought to exercise their power. In unbalanced governments

pure monarchy, pure aristocracy, or pure democracy, such maxims are the only thing which restrains the government from the utmost

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excesses in the direction of its characteristic tendency. In imperfectly balanced governments, where

some attempt is made to set

constitutional limits to the omnipotence of the strongest power, but where that power is strong enough to be able, with immediate impunity, to overstep them, it is only by maxims of constitutional morality that

any regard or respect is preserved for the checks & limits of the



constitution.

Lastly, in well balanced governments, in which the power is divided & each sharer is protected against the usurpations of the others by being armed for defence with instruments as powerful as those which the others can exercise for offence, the government can only be carried on at all by forbearance on all sides to exercise those extreme powers unless provoked by conduct as extreme on the part of some other sharer, & in this case we may truly say that only by the regard paid to maxims of constructional morality is the constitution kept in existence. It is therefore a fit, & very necessary question, in \_\_\_\_\_<sup>(2)</sup> of representative institutions, **in** what **spirit** the electors ought to exercise their privilege. They have, & must have, the power of directing their choice by any principles, & **annexing** to it any **conditions**

they please. But it makes a great difference, what conditions they think **they** ought to **annex** to it, & it is therefore important to consider, whether one of these should be, that the representative shall adhere to certain opinions, prescribed to him by his constituents.

No reader of this treatise can for a moment doubt, what conclusion on this subject, follows generally from the principles which have been stated.

We have **from** the first laid down, & kept in view through the whole discussion, the coequal importance of two great requisites of government ; responsibility to those, for whose benefit all political power

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ought to be, & always professes to be, exercised ; & \_\_\_\_\_<sup>(3)</sup> with this,

to obtain, in the greatest

extent possible, for the business of government, the benefits of superior intellect, specially trained for its task, & making the mode of its performance subject of profound reflexion. If this second purpose is worth attaining at all, the necessary price must be paid for it. Superior powers of mind & profound study are of no use if they do not sometimes lead a person to different conclusions from those which are formed by average powers of mind without any study : & if there be any use

in choosing representatives who are in any intellectual respect superior to an average elector, it will certainly happen that the representative will sometimes differ in opinion from the majority of his constituents & that when he does so, his opinion will be oftener right than theirs. It follows, therefore, that the electors will not do wisely if they insist on absolute conformity to their opinions as the condition of his retaining to his seat.

The principle is clear enough ; but difficulties arise in its application : for if it is important that they should choose a representative more instructed than themselves, it is equally necessary that this wiser man should be responsible to them ; in other words, they are the judges of the manner in which he fulfils his trust : & how are they to judge of this except by the standard of their own opinions ?

How are they even to choose him in the first instance, but by this same standard ? It will not do to choose him by mere brilliancy — by superiority of showy talent. The tests by which an ordinary man can judge of mere ability are very imperfect ; they have reference almost solely to the arts of expression, &

hardly at all to the worth of what is expressed. Neither can it be said that if they could ascertain, with the utmost precision, the ablest man they ought on that sole account to alter him to judge for them

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without any regard to their opinions. The ablest of the candidates may be a Tory, & the electors may be Liberals ; or a Liberal, & they may be Tories.

He may be a High Churchman, & they Dissenters ; or conversely ; a Rationalist, & they Evangelicals, or vice versa. His abilities, in their estimation, might in these cases only enable him to go farther & be more

efficient in what they may conscientiously believe to be a wrong course ; & they may be bound, thinking as they do, to deem it more important that their representative should adhere to what they think truth, than that they should be represented by a person of greater than average ability.

They have to consider

not solely how they shall be mentally represented, but how their particular moral position & intellectual point of view shall be represented at all. The influence of their mode of thinking ought to be felt in the legislature, even if it is not shared by any of the ablest men in the country. In some cases, too, it may be necessary that the representative should have his hands tied to secure his fidelity to their interests, or rather, to the public interest as they conceive it. This would not be the case under a perfect political system ; but, under the present one, the electors are often obliged, by social & pecuniary necessities, to select their representative from a class of persons of a station in

life \_\_\_\_\_<sup>(4)</sup> apart from themselves, & having a different class interest ; they

cannot therefore venture to abandon themselves to his discretion.

Who will blame an elector of the poorer classes, who has only the choice between two or three rich men, for requiring from the one he votes for, a pledge to those measures which he considers

a test of emancipation from the class interests of the rich ? Ever apart from these artificial necessities, some of the members of the

K\_005

**electoral** body will always be obliged to take the candidate selected by the majority of their own side. But though they would have no chance with a candidate of their own, their votes may be essential to the election of the one they may vote for ; & their only chance of having their share of influence on his subsequent conduct, may be to make their support \_\_\_\_\_<sup>(5)</sup> subject to his pledging himself to certain conditions.

These conflicting considerations are so complicatedly interwoven with one another ; it is so important that the electors should choose wiser men than themselves as representatives, & should obtain the benefit

in public measures of that superior wisdom, while at the same time it is so impossible that conformity to their own opinions should not enter for a great deal into their judgment as to who possesses that wisdom, & how its presumed possessor has verified the presumption by his conduct, that it is quite impracticable to draw any definite or positive **line** ; & the result will depend, less upon any

positive prescription or idea of political morality,  
 than upon the general **tone** of mind of the people, in respect to the  
 important requisite, of deference to mental superiority. Individuals  
 or peoples who have a strong sense of the value of superior wisdom  
 are likely to recognize it where it exists, by other signs than thinking  
 exactly as they do & even in spite of considerable differences of opinion ;  
 & when they have reorganized it, they are not **prone** to impose  
 their own opinion as a law upon persons to whom they look up as wiser  
 than themselves. On the other hand, there is a character of mind which  
 does not look up to any one ; which thinks no other person's opinion  
 much better than its own, or so good, in any respect whatever, as that  
 of a  
 hundred or a thousand persons like itself : if the electors are of this

K\_006

turn of mind, they will elect no one whom they do not consider as the  
 express image of their sentiments, & will continue him no longer than  
 while he reflects those sentiments in his conduct ; & all  
 aspirants to political honours will endeavour, as  
 Plato says in the Gorgias, to fashion themselves after the image of the  
 Demos, & make themselves as like to it as possible. Now it cannot be  
 denied, that a complete democracy has a strong tendency to shape the  
 sentiments of the electors after this model. Democracy is essentially  
**unfavorable** to the  
 reverential spirit. It is essential to democracy, & part of its good  
 operation. That  
 it destroys reverence for mere social position ; by doing which,  
 however, it closes the  
 principal school of reverence, as to merely human

relations which exists : but, besides this, democracy, in its very essence, insists

so much more forcibly on the things in which all are entitled to be equally considered, than on those in which one person is entitled to more consideration than another, that the respect for even personal superiority is naturally liable to be below the mark. It is on this account among others that I hold it of so much importance that the institutions of the country should stamp the opinions of persons of a more highly educated class as entitled to greater weight than those of a less educated : & on this account I should contend for assigning plurality of votes to superior education if only to give the tone to public feeling, & wholly apart from any direct political consequences.

When there does exist in the people of a country, an adequate sense of the much greater value that should attach to some individual opinions than to others, they will not lack criteria by which to discover the persons who are entitled to it. Actual public services will naturally be the foremost indication : to have filled high

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posts, & done important things in them, the wisdom of which has been justified

by the results ; to have been the author of measures which their effects show to have been wisely planned ; to have made predictions which have generally been verified, seldom or never falsified, by the event ; to have given advice, which when taken has been followed by good consequences, when neglected, by bad. There is doubtless a considerable

degree of uncertainty in all these signs of wisdom ; but we are looking

for such as can be applied by persons of ordinary discernment. They will do well not to rely much on any one sign, unless corroborated by the rest, & in the estimation of so disputable a thing as the success or merit of any practical effort, to be greatly influenced by the general opinion of those who are specially conversant with the subject matter. These tests are applicable to tried men. Those who are as yet untried practically, may have been tried speculatively ; they may have, in public speaking or in print, discussed public affairs so as to show that they have given serious study to them, & may, in the character of more political thinkers, have exhibited a considerable amount of the same titles to confidence which are available to those who have been tried as practical statesmen. In the case of persons wholly untried, the criteria will be, general reputation for ability among those who know them, & the confidence placed in them & recommendations given to them by persons already advantageously known. By tests like these, those who sufficiently value mental ability, & are anxious to look out for it, will generally succeed in obtaining men whom they can trust to carry on public affairs according to their own judgment, & to whom they would feel it an affront to require that they should         <sup>(6)</sup> that judgment to persons much their inferiors in knowledge. If they

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cannot obtain such persons, they are justified in taking other precautions for no one can be expected to postpone his individual opinion, unless to enable himself to be served by a person of superior knowledge to himself. It will indeed be

wise in the **electors** to remember that when once chosen, the representative, if he devotes himself to his duty, has opportunities of correcting an original false judgment, greater than fall to the lot of his constituents : & on these grounds, they should not exact a pledge not to change his opinion, or, if he does, to resign his seat ; unless in the case already mentioned, when they are obliged to choose some **person**, in **whom** impartiality they have not full confidence. But in a first choice of an unknown person, the **elector** cannot be expected not to make conformity of sentiments with himself the prime requisite. It is enough if he does not make a subsequent change of those sentiments, honestly avowed, with its reasons undisguisedly stated, a peremptory reason for withdrawing his confidence.

Even in the case of the most tried ability & acknowledged superiority in the representative, the elector's opinions are not to be placed entirely in abeyance. Deference to mental superiority is not to go to the length of self annihilation & abnegation of any opinion of one's own. In the case indeed of any minor differences of opinion, however **decided** the elector may be in his own, he ought to consider that when a wise man differs from him there is a considerable chance of his being in the wrong, & that even if, otherwise, the advantage is so **immense** of having a wise man to act for him in the **many** things whom he has no positive opinion of his own, as to be worth purchasing by giving up his own opinion on things not absolutely essential. In such a case he will often strive to reconcile both wishes by inducing the wise man

K\_009

to sacrifice his own opinion on the points of difference : but for the



wise man to lend himself to this is treason against  
 his especial office : it is an abdication of the peculiar duties of  
 mental superiority, of which it is one of the highest  
 not to desert the cause which has the                     <sup>(7)</sup>  
 against it, nor to deprive of his services those of his opinions which  
 need it most. A man of ability & conscience will insist on full  
 freedom to act as he in his own judgment thinks best : but the electors  
 are fully entitled to know how he intends to act ; what are the  
 opinion which he means should guide his conduct, on all points which  
 are **relevance**  
 to his mandate. If the electors are wise, they will overlook in  
 favour of his general value, many & great differences between these  
 opinions & their own. But there are some which they  
 cannot be expected to overlook. In the case of every  
 person who has the amount of interest in the government of his country  
 which  
 befits a citizen, there are certain opinions on national affairs  
 which are like his life blood ; which the strength of his conviction  
 of their truth, together with the importance he attaches to them,  
 forbid him to place in **abeyance** or postpone to the judgment of  
 any other person however wise. Such convictions as these when they  
 exist in a people, or in any portion of one, are entitled to influence  
 in public affairs in virtue of their existence, & not solely in virtue  
 of the probability of their being well grounded. A people cannot be  
 well governed in opposition to their fundamental notions of right, even  
 though  
 these happen to be in some points erroneous : & the most  
 philosophical conception of the relation which should subsist  
 between governors & governed, will not                     <sup>(8)</sup> its sanction to their

K\_010

refusing to be represented by any one who intends to govern them in opposition

to any of those fundamental notions : or, if they avail themselves of his capacities of good service in other respects, at a time when the points at which they are fundamentally at issue with him are not likely to be brought into question, they are justified in \_\_\_\_\_<sup>(9)</sup> him at the first moment when a question arises in which these are involved, provided at least, there is not so assured a majority for what they think right, to render the dissent of that particular individual innocuous. Thus (I mention names only for familiar illustration, & not for any personal application) the opinions supposed to be entertained by Mr Cobden & Mr Bright on the subject of resistance to foreign aggressions, might be overlooked during the Crimean war, when there was an overwhelming national feeling on the contrary side, & might yet very properly lead to their rejection by the electors at the time of the Chinese quarrel (though in itself a more doubtful question) because it was then for a time **uncertain** whether their view of the case might not prevail.

As the result of all that precedes, I would say, that actual pledges should not be required unless (which can only be the effect of **any** imperfect institutions) the electors are obliged to fix their choice on a person presumptively under the influence of partialities unfavorable to them. That they are entitled to a full knowledge of the political opinions & sentiments of the candidate, & to reject any one who differs from themselves on the few articles which are the foundation of their political belief.

That in proportion to the opinion they have of the mental superiority of a candidate, they ought to put up with his professing & acting on opinions different from theirs on any or every thing

K\_011

not included in their fundamental articles of belief ; & should attach much more importance to being represented by a \_\_\_\_\_<sup>(10)</sup> man, than by a man who professes agreement with them in a greater number of opinions : for the benefits of his ability are certain, but the hypothesis of his being wrong & they right on the points of difference is a very doubtful one ; while if they choose the other they lose the sure benefit ; obtaining no other equivalent than to be governed in conformity to an opinion which has a great probability of being \_\_\_\_\_<sup>(11)</sup> .

I have, throughout, discussed this question on the supposition that the electoral system, in all that depends on positive institution, conforms to the principles laid down in the preceding chapters. Even on this supposition, the delegation theory of representation seems to me false, & its practical operation mischievous, though the mischief would then be confined within certain bounds. But if the principles which I have attempted to \_\_\_\_\_<sup>(12)</sup> , are not recognized by the Constitution : if no provision is made to secure a representation to minorities, & no difference made in the numerical value of votes, according to some criterion of the amount of education possessed by the voter ; in that case no words can express the importance of having a full discretion to the representative ; for it is the only chance left for having any opinions

whatever represented, except those of the majority. In that falsely called democracy which is, or rather which would be, the exclusive

K\_012

class rule of the operative classes, the only escape from class **legislation**

in its narrowest & ignorance in its **grossest** form, would lie in such disposition as they might have to choose educated persons as representatives, & to defer to their opinion. Some willingness to do so might naturally be expected, & all would depend upon cultivating

it up to the highest point. But, once invested with political omnipotence, if the operative classes voluntarily concurred in imposing this or any other limitation upon their self-opinion & self will, they would show themselves wiser than any class, possessed of absolute power, has ever shown itself, or is ever likely to show itself under that **pervverting** influence.

G\_005 to G\_011. [Chapter 13]

G\_005

Ought there to be two or only one House of Parliament in a representative constitution ?

Of all questions relating to the theory of representative government, none have been the subject of more discussion, especially on the Continent, than what is known as the question of the Two Chambers.

It has indeed occupied a greater amount of the attention

of thinkers than many other questions often times its importance after much reflexion & many variations of opinion on this subject, the conclusions I have arrived at is that if all other constitutional questions are rightly decided, it is of very little consequence

whether the Parliament consists of two chambers or only of one.

If there are two chambers, they may either be of similar or of dissimilar composition. If of similar, they will generally obey the same influences, & whatever has a majority in one of the two Houses will generally have it in the other. It is true that the necessity of obtaining the consent of both to the passing of any measure may occasionally be a maternal obstacle to improvement, since assuming the two Houses to be both of them representative, & to be equal in their numbers, a number slightly exceeding a fourth of the entire representation may prevent the passing of a Bill, while if there is but one House it requires a majority of the whole to do so. But this case is rather abstractedly possible than likely actually to occur : the side which has a majority in one House, is almost certain to have at least a very large minority in the other : it therefore would

G\_006

almost always happen that any improvement, which could thus be impeded, would be one which had not much more than a simple majority in the entire body, & the worst that could in that case happen would but delay for a short time the adoption of the measure, or give rise to a fresh appeal to the electors to ascertain if the slight

majority in Parliament corresponded to an effective majority in the country. In this case the inconvenience of delay, & the advantage of the new appeal to the public may perhaps be considered equally balanced. I attach little importance to the argument often urged in favour of the system of two Chambers, that it prevents precipitation, & compels a second deliberation ; for in any well constituted representative assembly (as in our own House of Commons) the established forms of business do & ought to require many more than two deliberations. The consideration which tells most in my judgment in favour of two Chambers is the bad effect produced upon the mind of any holder of power, whether it be an individual or an assembly, by the feeling of having only themselves to consult. It is of importance that no set of persons should be able, even temporarily, to make their mere will prevail, without the condition of other people's consent. A majority in a single Assembly easily becomes despotic & overweening, if it is released from the necessity of considering whether its acts will be concurred in by another Chamber. For the same reason which made the Romans have two consuls, it is desirable there should be two Chambers : that neither may be exposed to the corrupting influence of absolute authority even for the short space of a simple year. One of the most

G\_007

important requisites in the practical conduct of politics is the readiness to compromise, the disposition to shape measures so as to be as little offensive as possible to persons of opposite views : & of this habit the mutual give & take between two Houses is

a school which it would hardly lie safe to dispense with.

But the two houses may not be of the same composition ; & may be intended to be a check on one another. One of them being supposed democratic, the other will naturally be so constituted as to be some restraint upon the democracy. That there should be, in every polity, a centre of resistance to the predominant power in the Constitution, I regard as one of the most fundamental maxims of government ; & if any people, who possess a democratic representation, are, from their historical antecedents more willing to tolerate such a centre of resistance in the form of a second chamber or House of Lords than in any other form, this constitutes a strong reason for having it in that form. But it does not appear to me the best, form, or even the most efficacious for its object.

If there are two Houses, one of which is considered to represent the people, the other to represent only a class, or not to be representative at all. I cannot believe that in a really democratic state of society the second would have any real power of resisting even the aberrations of the first. It might be allowed to exist, in deference to habit & association, but not as a check. If it exercised any independent will, it would be required to do so in the same spirit as the other House, & to content itself with correcting accidental oversights.

The possibility of any real check to the ascendancy of the majority depends entirely on the balance of forces in the most

G\_008

popular branch of the constitution ; & I have indicated the mode in which, to the best of my judgment, this balance of forces might most effectually

be established there. I have also pointed out, that even if every

such attempt were renounced, & the numerical majority allowed to exercise complete ascendancy by means of a corresponding majority in the representation, yet of minorities also are allowed to enjoy that equal right, which is due to them on the strict numerical principle, of being represented proportionally to their numbers, the representatives of the several minorities will include **so** \_\_\_\_\_<sup>(13)</sup> a share of the higher ability of the country, as to have an importance more than in proportion to their numerical strength, & to form collectively the moral centre of resistance which is desiderated. A second chamber therefore is not required for this purpose : & if for the other reasons already mentioned, it be decided that there should be such a chamber, it is desirable that it should be composed of such elements that, while \_\_\_\_\_<sup>(14)</sup> rather to ally itself than **otherwise** with the better portion of the dissentient opinions & interests, it should be as well fitted as possible to make itself useful in the general business of Parliament.

Of all the principles on which a wisely conservative body, or a body destined to moderate & regulate democratic ascendancy, can possibly be constructed, the best beyond comparison seems to be that which presided over the composition of the Roman Senate, itself the most consistently prudent & sagacious body that ever administered public affairs. The deficiencies of a democratic assembly which represents the general public, are the deficiencies of the public itself, want of training & special experience. The appropriate



G\_009

corrective is to associate with it a body of which special training & experience should be the characteristic. The best Upper House would be one composed of all persons who had passed through important political offices. If I had the power of forming such a Senate for a country like England, it might be composed in some such manner as the following. All who were or had been members of the **Legislative** Commission which I have noted as indispensable ingredient in every well constituted government. All who were or had been Chief Justices or heads of any of the Superior Courts of law or equity. All (perhaps) who had for five years held the office of puisne judge. All who had held for two years any Cabinet office : but these should be eligible also to the House of Commons, & while serving these their peerage or senatorship should be held in abeyance. The condition of time is introduced to prevent persons from being named Cabinet Ministers merely to give them a seat in the Senate & the same term of two years which entitles them to a pension might entitle them also to a senatorship. All who had been Commander in Chief, & all, who having commanded an army or a fleet, had been thanked by Parliament for military or naval successes. All Governors General of India or British America, & all who had held for ten years any Colonial Governorships. The permanent civil service should also be represented : all should be senators who had filled, during ten years, offices equivalent to the important ones of Under Secretary to the Treasury, or permanent Under Secretary of State.

Functions of a legal or political kind are the only ones which should confer the senatorial dignity. Scientific & literary eminence are in their nature indefinite, & disputable : if the \_\_\_\_\_<sup>(15)</sup> of

G\_010

eminence were unconnected with political matters it would afford no indication of fitness : if connected with them it would enable successive ministers to deluge the House with mere political tools.

The historical antecedents of England make it almost certain that unless in the very improbable case of a violent subversion of the existing constitution, any second chamber which could exist would have to be built on the foundation of the House of Lords. It is out of the question to think of abolishing that Assembly, to replace it by a Senate such as I have sketched, but there would be no insuperable obstacle to aggregating these different classes or categories to the existing body, in the character of Peers for life : An ulterior step might be that the hereditary peerage might be present by their representatives instead of personally : a principle already recognized in the case of the Scotch & Irish peers, & which the mere multiplication of the order will probably some time or other render inevitable. An easy adaptation of Mr Hare's plan would prevent the representative peers from representing exclusively the party which has the majority in the peerage. If, for example, one representative were allowed to every ten peers, the peers might be allowed to group themselves

as they pleased, any ten being empowered to elect a representative.

The election might be conducted as follows. All peers who were candidates for the representation of their order should be required to declare themselves such, & enter their names in a list. A day & a place should be appointed at which all peers, desirous of voting, should be present either

G\_011

in person or in the usual parliamentary manner by proxy.

Their votes should be taken, each peer voting for only one. Every candidate who had as many as ten votes should be declared elected, & if any one had more, ten of them should be selected by lot to form his constituency, & the remainder of his voters would be set

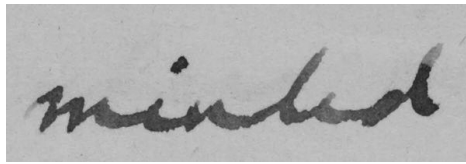
free to give their votes over again for some one else. The adjustment would

be easy. **Every** representative peer would thus be the representative of ten individuals who had voluntarily joined in voting for him as the one, among all candidates not already returned, by whom they were most desirous to be represented.

Another very eligible mode of forming a Second Chamber, would be to have it elected by the first, with only one restriction, that it should not nominate any of its own members. Due provision being of course made for the representation of the minority, the assembly would be almost sure to be well composed, & to comprise that class of highly capable men who either from accident or [for] want of showy qualities had not been able to succeed in \_\_\_\_\_<sup>(16)</sup> themselves chosen by any popular constituency.

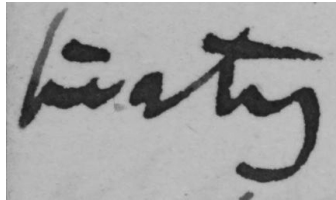
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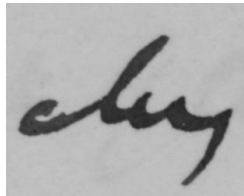
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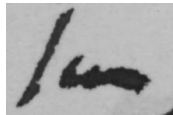
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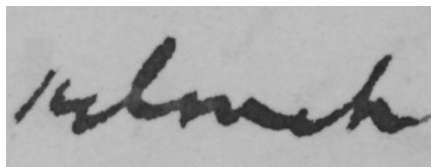


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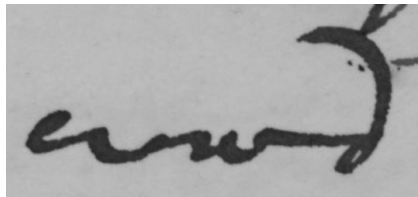


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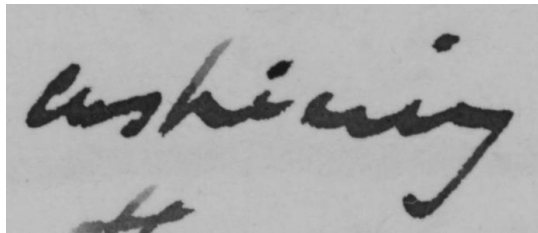
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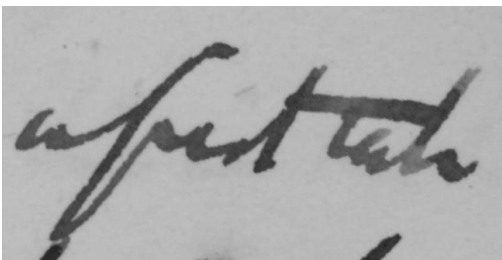
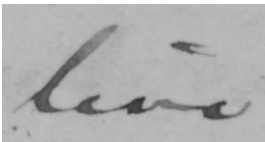
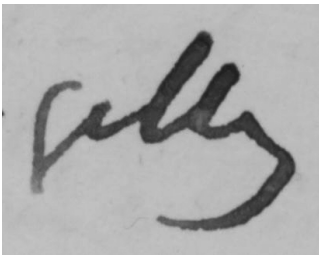
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