

# ジョン・ステュアート・ミル

## 『代議制統治論』 自筆草稿

——第14章と第15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きた。本稿で翻刻されるのは、『代議制統治論』第14章と第15章である。本稿によって、ミル翻刻作業は終了である。

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### 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>HŌGAKU 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 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. <a href="https://www.publication.law.nihon-u.ac.jp/pdf/political/political_57_3/each/05.pdf">https://www.publication.law.nihon-u.ac.jp/pdf/political/political_57_3/each/05.pdf</a>
[Ch. 9] Should there be two stages of election ?	

[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章と第11章（翻刻）——」『法学紀要』62巻、2021年 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. <a href="https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_62.html">https://www.publication.law.nihon-u.ac.jp/bulletin/bulletin_62.html</a>
[Ch. 11] Of the duration of Parliament	
[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 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. <a href="https://www.publication.law.nihon-u.ac.jp/political/political_57_4.html">https://www.publication.law.nihon-u.ac.jp/political/political_57_4.html</a>
[Ch. 13] Ought there to be two or only one House of Parliament in a representative constitution ?	
[Ch. 14] Of the Executive in a representative government	「ジョン・ステュアート・ミル『代議制統治論』自筆草稿——第14章と第15章（翻刻）——」『政経研究』58巻2号、2021年 John Stuart Mill's Autographed Draft Manuscript "Considerations on Representative Government." A Transcription of Chapter 14 and 15. <i>SEIKEI KENKYŪ</i> . Vol. 58(2). 2021.
[Ch. 15] Of local representative bodies.	
[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 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. <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>
[Ch. 17] Of the government of dependencies by a free state	
[Ch. 18] Of Federal Representative Governments	
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.	C h . 1 7 . 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 14 and 15.

Hiroshi KAWAMATA  
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. We, 4 authors transcribe the chapter 14 and 15 from it. This time, all the transcripts are finished.

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).

## H\_004

Of the Executive in a representative government

It would be quite needless, in a treatise like this, to enter into any discussion of the different departments or branches into which the executive part of the government should be divided. In this respect the exigencies of different governments are different, & there is little probability that any great mistake will be made in the classification of the duties when men are willing to begin at the beginning, & do not hold themselves bound by the results of the series of accidents to which, in an old country like this, the existing division of the public business is attributable. It may be sufficient to say that the classification of functionaries should follow that of subjects, & that there should not be several distinct departments independent of one another, to carry on different parts of the same natural **whole** ; as in the administration of our own army up to a recent period, & in some degree even at present.

As a general rule, every executive function, whether superior or subordinate, should be the particular & especial duty of some one individual. It ought to be known who did everything, & through whose default anything was left undone. Responsibility which is divided is in a great degree **nullified**. There ought always to be some one person who receives the praise of what is well done or **& the blame** of what is ill. Boards, therefore, are not a fit instrument to be at the **head** of any public business. “Boards” it is

happily said by Bentham “are screens.” What “the Board”

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does, is the act of nobody ; & nobody can be made to answer for it. This is one

of the first & greatest principles of all good administration. On the other hand, it is also a maxim of experience, that in the multitude of counsellors there is wisdom ; & that a man seldom decides right, even in his own concerns, much less in those of the public, if he

makes no habitual use of any knowledge but his own, or that of some single adviser. There is no necessary incompatibility between these two principles. It is easy to give the effective power, & the full responsibility, to one, providing him when necessary with advisers each of whom is responsible only for the opinion he gives.

In general the head of a department of the government is a mere politician. He may be a good politician, & a man of merit ; & unless this is usually the case, the government is a bad one. But his general capacity, & the knowledge he ought to possess of the general interests of the country, will not unless by occasional accident be accompanied by adequate professional knowledge of the particular department over which he is called on to preside. Professional advisers therefore must be provided for him ; & wherever mere experience & attainments are sufficient, wherever the qualities required in a professional adviser may possibly be united in a single well selected individual (as in the case for example of a law adviser) one such person for general purposes, and a staff of

clerks to supply

knowledge of details, meet the demands of the case. But there are cases in

which it is not sufficient that the minister should consult some

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one competent person, & (when not himself conversant with the subject)

act implicitly on his advice. There are cases in which it

is necessary that he should not occasionally but habitually, listen

to a variety of opinions, & inform his own judgment by the discussion

of them. This, for example, is most emphatically necessary in

military & naval affairs. The military or normal ministers at

least, therefore, & perhaps others, should be provided with a

Council, of able & experienced professional men ; &

as a means of obtaining the best men under every

administration, they ought to be permanent, that is to say

they ought not to be expected to resign with the ministry who

appointed them ; though it is a good rule that all

who hold high appointments to which they [have] risen

by selection, & not in the ordinary course of promotion

should hold office only for a fixed term, unless

reappointed ; as is now the case with staff appointments

in the British army. This renders appointments less likely

to be jobbed, not being a provision for life, & at the same

time affords the means, without affront to any one, of getting rid of

those who are least worth keeping, & bringing in eminently fit persons

of younger standing, for whom

room might never be made by death vacancies, or

voluntary resignations.



These Councils would be consultative merely, in this sense, that the ultimate power would reside <sup>(1)</sup> \_\_\_\_\_ in the minister himself : but neither ought they to consider themselves as ciphers, or as capable of being rendered so at his pleasure. The advisers attached to a powerful

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& perhaps selfwilled man ought to be placed under conditions which make it impossible for him not to listen to & duly consider what they recommend, whether he adopts their opinion or not. The relation which ought to exist between a chief & this kind of advisers is very accurately hit in the constitution of the Council of the Governor General & those of the different Presidencies in India. These Councils are composed of the persons who have professional knowledge of Indian affairs, which the Governor General & Governors generally have not. As a rule, every member of Council gives an opinion of course very often a simple acquiescence : but if there is a difference of sentiment, it is at the option of every member to record the reasons of his opinion. In ordinary cases the decision is according to the sense of the majority but if the Governor General or Governor thinks fit, he may set aside even the unanimous opinion of the Council, recording his reasons. The result is that the Governor is individually & effectively responsible for all the acts of the Government. The members of Council have only the responsibility of advisers, but it is always known, or

capable of being

known, what they have advised ; while from their dignified position & their ostensible participation in all that the Government does, they have as strong motives to apply themselves to the business & to form & express a well considered opinion on every part of it, as if the whole responsibility rested with themselves.

A most important principle of good government in a popular constitution is that no executive functionary should be appointed by popular election : neither by the votes of the people themselves nor by those of their representatives.

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The whole of the business of government is skilled employment : the qualifications for the discharge of it are of that special & professional kind which cannot be properly judged of except by persons who have some share of those qualifications themselves, or some practical experience of them.

The business of finding the fittest persons to fill public employments, not only selecting the best of those who offer but looking out for them, & taking note of all fit persons that they may be found when wanted, is very laborious, & requires a delicate as well as conscientious discernment, & as there is no public duty whatever which is in general so badly performed, so there is none for which it is of greater importance to enforce personal responsibility, by making it the especial duty of some conspicuous person or persons. All subordinate public officers who are not chosen by some mode of public competition, should be appointed on the responsibility of the

minister under whom they are to serve : The ministers, all but the chief, will naturally be selected by the chief, & the chief himself, though really designated by Parliament, should be in a kingly government, appointed by the Crown. The same officer who appoints, should be the sole person empowered to remove any subordinate officer who is liable to removal ; which the far greater number ought not to be, except for personal misconduct ; since it is in vain to expect that the body of persons by whom the whole details of the public business are conducted & whose qualifications are generally of much more importance to the public than those of the ministers himself, will devote themselves to their profession

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& acquire the knowledge & skill on which the minister must often place entire dependence, if they are liable at any moment to be turned adrift for no fault, merely that the minister may gratify himself or promote his political interest by appointing somebody else.

To the rule against appointing executive officers by popular suffrage, ought the chief of the executive in a republican government to be an exception ? Is it a good rule, which, in the American Constitution, provides for the election of the President once in every four years by the entire people ? It appears to me far better that the chief magistrate in a republic should be appointed directly, as the chief minister in a monarchy is virtually, by the Parliament. In the first place, he is certain, in that case, to be a much more eminent

person. The party which has the majority in Parliament would then, as a rule appoint its own leader ; who is sure to be at least one of the four or five men of highest reputation in public life : while the President of the United States is almost always either a perfectly obscure man, or one who has gained any reputation he may possess in some other field than politics : & this is no accident, but a consequence of the very nature of

the case : the eminent men of a party are never its most available candidates, for all eminent men have enemies, or have done something incurring unpopularity with some considerable section of the community which may tell with fatal effect upon the number of votes ; while a man without antecedents, a man of whom nothing is known but that he professes

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the creed of the party, is readily voted for by its entire strength.

Another

consideration of equal importance is that when the highest dignity of the country is to be decided by popular election once in every few years, the whole intervening time is spent in a virtual canvass, keeping the entire community in turmoil, & every public question is discussed & decided less upon its own merits than upon its probable influence on the next presidential election. Had the \_\_\_\_\_<sup>(2)</sup> been to make party spirit the ruling power in all public affairs, & give an inducement not only to make every question a party question but to raise questions for the purpose of founding parties upon them, it would have been difficult to devise any means better adapted

to the purpose.

If it were thought desirable that the head of the executive should not be in such a complete dependence upon the votes of a representative assembly, as the Prime Minister of England now is, he might, although appointed by Parliament hold his office for a fixed term independent of them. But I conceive that the whole evil of the dependence would be obviated if on an adverse vote by Parliament, he had the option, as the Prime Minister virtually has, of dissolving the House & proceeding to a new election.

I have not taken into account the case in which the vast power centralized in the chief magistrate, & the insufficient attachment of the mass of the people to free government render it possible for him to have a chance of succeeding in an attempt to usurp sovereign power.

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Where there is any danger of that sort, no first magistrate is admissible whom the Parliament cannot, by a single vote, reduce to a private station. Even that entire dependence may be, in such an unfortunate state of things, but a weak protection.

Of all officers of government, those in whose case any kind of participation of popular suffrage in their nomination is most pernicious, are judicial officers ; since, while there are no functionaries whatever whose special qualifications the popular voice is less qualified to estimate, there are none in whose case complete impartiality, & absence of personal or party connexion

with any politicians or sections of politicians, is of any thing like the same importance. Some thinkers, among whom is Mr Bentham, have thought that although judges ought not to be appointed by popular election, the people of their district ought to have the power, after experience, of removing them. There is no doubt that the irremovability of any public officer, to whom great interests are entrusted, is in itself an evil ; it is far from desirable that there should be no means of getting rid of a bad judge except for such misconduct as he can be made to answer for in a criminal court, & that a functionary on whom so much depends should have the feeling that he is free from responsibility except to his own conscience. The question however is, whether in the very peculiar position of a judge & supposing that every practicable security is taken for an honest appointment, irresponsibility except to his own conscience is not

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a less misleading influence than responsibility either to the government or to a popular vote ? Experience has long since decided this question in the affirmative, so far as responsibility to the executive is concerned ; the case is quite equally strong as it affects responsibility

to the public. Among the good qualities of a popular constituency those peculiarly incumbent upon a judge, justice & impartiality, are not to be counted : those are not the considerations which decide any popular election ; in most cases in which a popular vote is called for they are not the considerations required. Justice

& impartiality are as little wanted for the purpose of electing a member of parliament as they can ever be in any transaction of men. The electors are not called **on** to award to either candidate anything which belongs to him by right, or to decide on the general merits of rival competitors, but to determine which best represents their own political convictions. If a judge could be removed from office by a popular vote, every one who was desirous of supplanting him would make capital for that purpose out of all his judicial decisions, would carry all of them, by irregular appeal before a public opinion wholly incompetent for want of due **&** calm examination, would play upon popular passion **&** prejudice where it already existed, **&** take pains to stir it up **where** it did not, with infallible success unless the judge, **&** his friends, made equally powerful appeals on the other side ; <sup>(3)</sup> ===== judges would habitually feel that they risked their office upon every decision they gave in an important case, **&** that it was less essential to them to consider what decision was just, than what would be most applauded by the public, or would

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least admit of insidious misrepresentation. The practice introduced in some of the revised State Constitutions in America, of submitting judicial officers to periodical popular reelection, will be found to be one of the most fatal errors ever yet committed by democracy ; **&** were it not that the practical good sense which never entirely deserts the people of the United States, is said to be producing a reaction,

likely in no long a time to cause the reversal of this mischievous provision, it might with reason be considered as the first decided downward step in the degeneration of modern democratic government.

In the appointment of officers for local purposes, the principles are the same as in the case of the national executive. It is ridiculous that a surveyor, or a health officer, or even a collector of rates, should be appointed by popular suffrage. If he is so, the choice depends on interest with a few local leaders, or on a virtual tossup or is decided by an appeal to sympathy on the ground of having twelve children & having been a ratepayer in the parish for thirty years. It is scarcely better that these officers should be chosen by the local representative body. Such bodies have an irresistible tendency to become joint stock associations for carrying into affect the private jobs of their various members. Appointments should all be made on the individual responsibility of the Chairman of the body let him be called Mayor or by any other name : he occupies a position in the locality analogous to the prime minister in the state, & under a well organized system the appointment & watching of the local officers would be the most important part of his duty ; he himself

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being appointed by the body from their own number, & either being reelected annually or being removable by a vote of the Council.

With regard to that large & important body constituting the permanent strength of the public service, those who do not change with changes of politics but remain under all governments, to aid every minister by their experience & traditions, inform him



by their knowledge of business, & conduct  
 official details under his general control ; those in short who form the  
 class of professional public servants, entering their profession  
 as others do while young & hoping to rise progressively  
 to its higher grades as they advance in life ; it is evidently  
 improper that these men should be liable to be turned out, &  
 deprived of the whole benefit of their previous career, except  
 for positive, proved, & serious misconduct. Since therefore there  
 is no way of getting rid of them except by quartering them as  
 pensioners upon the public, it is of the utmost importance  
 that the appointments should be well made in the first instance.  
 In making first appointments little danger is to be  
 apprehended from want of skill & knowledge in the choosers, but much  
 from  
 partiality & private or political interest. Being all appointed  
 at the commencement of the manhood, not as having acquired  
 but in order that they may acquire a knowledge of their profession,  
 the only thing by which their qualifications can be discriminated  
 is proficiency in the ordinary branches of liberal education ; & this  
 can be ascertained without difficulty, provided there be the requisite  
 pains & the requisite impartiality in the judges. Neither the one nor the  
 other  
 can be expected from a minister ; who is obliged to rely wholly on

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recommendations, & however honest as regards his own personal wishes  
 never can be expected to be proof against solicitations from persons  
 who have promoted his election,  
 or whose political support is important to the ministry to which he

belongs. The only chance of honest appointments is by submitting all candidates to a public examination, conducted by persons not engaged in politics, & of the same class & quality with the examiners for honours at the Universities. It is absolutely necessary that the examinations should be competitive. A mere pass examination never does more than to exclude absolute dunces. When the question is between blighting the prospects of an individual, & performing a duty to the public which in the particular instance seldom appears of first rate importance, the balance always inclines to the side of good nature, every relaxation in one instance establishes a claim to it in others, each in succession becomes a precedent for more, & the scale of acquirements sinks gradually to something contemptible. Examinations for degrees are as **trumpery** at the Universities as those for honors are trying & serious. Where there is no motive to exceed a certain minimum, the minimum becomes also the maximum. On the contrary when the appointments are given to those who most distinguish themselves among all the candidates, & when the successful competitors are classed in order of merit there is not only a great stimulus to their individual exertions, but the influence is felt in every place of liberal education throughout the country : it becomes an object of ambition, & an avenue to success, with every schoolmaster to have furnished pupils who have

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obtained a high place in these competitions ; & there is hardly any way in which the government can do so much to raise the

quality of educational institutions throughout the country. Though the principle of competitive examinations for public employments is of so recent introduction in this country, & is still so imperfectly carried out, the Indian **service** being nearly the only case in which it exists in its **purity**, a very sensible effect has already begun to be produced by it on the standard of middle class education, still so wretchedly & disgracefully low ; & doubtless this influence will be felt more & more.

Though the first admission to government employment be determined by competitive examinations, it would in most cases be impossible that promotion in office should be so : & it seems proper that this should be decided, as it is at **present**, by a mixed system of seniority & selection : those whose duties are of a routine character rising by seniority, up to the highest point to which duties of that description can lead them, while those to whom duties of special trust or requiring special capacity are confided, would be selected as at present by the chief of the office. And this selection will generally be made honestly by him if the original appointments have been made by open competition : for his establishment will generally consist of individuals to whom he is personally a stranger ; if any one is found

H\_017

among them in whom either he, or his political friends & supporters take interest, it will be but occasionally, & only when to this advantage of connexion is added at least equality of real merit : & unless there is a very strong motive to job these appointments there is always a

strong interest in appointing the fittest person, being the person who gives his chief the most useful assistance, saves him most trouble & helps most to build up that reputation for good managment[sic] of public business; which necessarily & properly redounds to the credit of the minister, however much the qualities to which it is due may be those of his subordinates.

G\_012 to G\_020. H\_001 to H\_003. [Chapter 15]

G\_012

### Of local representative bodies

It is but a small part of the public business of a country which can be well done, or safely attempted, by the central government ; & even in our own government, the least centralized in Europe, the legislative portion at least of the governing body concerns itself far too much with the details of local affairs, & employs the supreme power of the state in cutting small knots which there ought to be regularly appointed means of untying. The enormous amount of private business which takes up the time of Parliament, & the thoughts of its individual members, distracting them from the proper occupations of the great Council of the nation, is already felt by all thinkers & observers as a serious evil, & what is worse, an increasing one.

It would not be appropriate to the limited subject of this Treatise to discuss at large the great question, in no way peculiar to representative government, of the proper limits of governmental action. I have said elsewhere what it seemed to me of most importance to say, respecting the principles by which

the extent of that action ought to be determined. But

after subtracting, from the functions performed by most European governments, all those which ought not to be performed by public authorities at all, there will still remain so great & various an aggregate of duties, that on the mere principle of division of labour it is absolutely necessary to share them between central & local authorities ; that is to say, not merely to have separate executive officers for purely local duties, an amount of separation which must exist under all governments

G\_013

but also that the popular control over those officers the function of watching & checking them, should be exercised not through the national Parliament or the national executive, but through local sub-Parliaments appointed for the express purpose. No less is this distribution of duties required to give effect to that political education of the citizens, to which popular institutions so essentially contribute & which is one of their most important benefits. It is requisite, then, that in addition to the national representation, there should be municipal & provincial representations : & the two questions which remain to be resolved are, how the local representative bodies should be constituted, & what should be their attributions.

With respect to their constitution, the question is comparatively easy, for the principles are the same as in the constitution of the national representation. As the principal part of the duty of the local bodies is the imposition & expenditure of local taxation, the election of the councils should vest in all who contribute to the local rates, to

the exclusion of all who do not. The representation of minorities should be provided for in the same manner as in the national Parliament, & there are the same reasons in support of plurality of votes. Only, there is not so strong an objection, in the inferior as in the higher body, to making the plural voting depend upon a mere money qualification, as it already does in some of our own local elections : for the honest & frugal dispensation of money forms so much larger a part of the business of the local, than of the national body, that there is both more justice & more policy in assigning a greater portion of influence to those who have a larger money interest at stake.

## G\_014

In regard to the proper circumscription of the local constituencies the rule so inappropriately applied to Parliamentary representation is here the only just & applicable one, viz. community of local interests. The very purpose for which the local representation is required, is in order that those who have any interest in common, which they do not share with the general body of their countrymen may manage that joint interest by themselves : & it is a gross anomaly if the distribution of the local representation follows any other rule than the grouping of those joint interests. There are local interests common to every town, whether great or small ; & every town, therefore, without consideration of size, ought to have its municipal council.

It is clear also that every town ought to have but one. The different

quarters of the same town have seldom or never any diversities of local interest : they all require similar local arrangements & disbursements, & the same arrangement may be made to serve for all. The paving, the lighting, the water supply, the drainage, the port & market regulations, cannot without great waste & inconvenience be different for different quarters of the same town. The subdivision of London into six or seven different districts with each its separate local administration, prevents the possibility of any consistent or well regulated  
 \_\_\_\_\_<sup>(4)</sup> for the attainment of the common object, produces collisions of authority & absence of any uniform principle in the discharge of local duties, & serves no purpose but to keep up the fantastical trappings of that union of

G\_015

modern **jobbing** with antiquated absurdity, the corporation of the City of London.

Another obvious truth is, that in each local circumscription there should be but one elective body for the whole of the local business, not separate bodies for different fragments of it. The division of labour does not imply the cutting up of every business into minute fractions, but the union of such functions as are fit to be performed by the same persons, & the separation of such as are best performed by different persons. The executive duties of the locality require to be divided for the same reason as those of state ; because they are of various kinds, each of which requires a kind of

knowledge peculiar

to itself, & the proper performances of each requires the

undivided attention of a qualified functionary. But

the business of the elective body is not to do the work, but to see

that it is properly done ; & to see that nothing which is worth doing, is left

undone. This is a **function** which can be executed for all departments

by the same **superintending** body, & is far better done by a collective

& comprehensive than by a professional & microscopic view. It

would be absurd that every workman should have a superintendant[sic]

to himself to look after him. There are many departments of

the government of the Crown, & many ministers to conduct them,

but these ministers have not a Parliament a-piece to keep them

to their duty. The local, like the national parliament has

for its proper business to consider the interest of the locality

as a whole, consisting of parts which must be adapted

to one another & attended to in the order & ratio of

their importance. There is another & a **still** stronger reason for

G\_016

uniting the control of all local business under one body. The **greatest**

imperfection of popular local institutions consists in the

low calibre of the individuals by whom they are almost

always carried on. That these should be of a very miscellaneous

character is indeed part of the usefulness of the institutions ; it is

that which renders them a school of political capacity

& intelligence. But a school supposes teachers

as well as scholars : the utility of the instruction

depends on its bringing inferior minds into contact with



superior, a contact which in the ordinary course of life is altogether exceptional, & the want of which contributes more than anything else to keep the generality of mankind on one level of contented mediocrity.

Not to mention that the value of the school is altogether lost, & it becomes a school of evil instead of good, if through want of due superintendence[sic], & of the presence of a higher order of characters, the duties of the body are allowed to degenerate as they so often do into the reckless though obtuse pursuit of the self interest of its members. Now it is altogether hopeless to induce persons of a high class either socially or morally & intellectually to take a share of local administration in a corner & piecemeal, as members of a Paving Board or a Drainage Commission. The entire local business of their town is hardly a sufficiently large object to induce men whose tastes & knowledge qualify them for national affairs, to become members of a merely local body, & devote to it the time & study which are absolutely required for the efficient performance of its duties, less than this is altogether out of the question. A mere Board of Works, though it comprehend the entire metropolis, is sure

G\_017

to be composed of the same class of persons as the vestries of the London parishes ; nor is it either practicable or even desirable that such should not form the majority ; but it is important for every purpose which these bodies are intended to answer, whether the enlightened & honest performance of their special duties or the cultivation of the political intelligence of the nation, that in every

such body **there** should be a proportion of the very best minds of the locality, who are thus brought into perpetual contact with the minds of a lower grade, inspiring them with their own more enlarged ideas & higher & more enlightened purposes.

A mere village has no claim to a municipal representation. By a village I mean a place whose inhabitants are not markedly distinguished by their occupations or relations from those of the surrounding country, & for whose local wants the general arrangements made for the neighbouring territory will suffice. The local representation of rural districts must be determined by geographical considerations, with due regard to those sympathies of feeling by which human beings are so much assisted to act in concert, & which partly follow historical boundaries, such as those of counties among us, & partly community of interest & occupation, as with agricultural, maritime, manufacturing or mining districts. Different portions of the local business sometimes require different areas of representation : the Unions of parishes, for example, have been fixed on as the most appropriate basis for the representative assemblies which superintend the relief of indigence : while highways, or prisons, or police, a larger extent such as that of an average county, is not more than sufficient.

G\_018

The principle, that an elective body, constituted in any locality, ought to have authority over all the local concerns common to that locality, sometimes requires modification from the competing consideration of the importance of obtaining the highest

qualifications. For example, if it be necessary for the proper administration

of Poor Laws (as I believe it to be) that the area of rating should not be larger than the present Poor Law Unions, which therefore requires a Board of Guardians for each Unions, yet as a much

more highly qualified class of persons is likely to be obtained for a County Board, than those who compose an average Board of Guardians, it may be expedient to reserve for the County Boards some higher descriptions of local business which otherwise might advantageously be managed within each separate Union.

From the constitution of the local bodies, I pass to the equally important & more difficult subject of their proper attributions. This question divides itself into two parts : what their duties should be ; & whether they should have full power over those duties, without interference of any kind whatever on the part of the central government.

It is obvious, to begin with, that all business purely local — concerning only the locality — properly devolves upon the local authorities. The paving or lighting of the streets of a town, the draining of its houses, is of very small consequence to any but its inhabitants, & the nation at large is interested in it in no other sense, than that in which it is interested in the private concerns of individuals. But among the duties which are

G\_019

classed as local, & performed by local bodies, there are many which might with equal propriety be called national, being,

in fact, the share belonging to the locality of some branch of the national administration.

The gaols, for example, most of which in this country are under country management — the local police — the local administration of justice, much of which especially incorporate towns is performed by officers elected

by the locality & paid from local funds : all this is a part of the general administration, & has an important bearing on general good government & well being : the principles, too, of these things are general ; there is no reason why police or gaols, or the administration of justice, should be differently managed in one part of the kingdom & in another ; whatever mode of management is the best ought to be made universal throughout the country, & must therefore be placed under central superintendence[sic].

It is often useful, & in our own country even necessary, from the absence in the localities of any officers representing the general government, that the execution of duties imposed by the central authority should devolve on officers appointed for local purposes by the locality. But experience is daily forcing on the public conscience a conviction of the necessity, whenever this is done, of having at least inspectors appointed by the general government, to see that the local officers do their duty. If prisons are under local management,

the central government appoints inspectors of prisons to see that the rules laid down by Parliament are observed, & to suggest others if observation of the state of the gaols shows them to be requisite : just

as there are inspectors of factories, & inspectors of schools, to watch over the observance of the Acts of Parliament relating to the first, &

of the conditions on which state assistance is granted to the latter.

On the whole, whatever is connected with the administration

G\_020

of justice, police & jails included, is so much a matter of special science independent of local peculiarities, that it may be, & ought to be, systematically & uniformly regulated throughout the country, & it is best that this regulation should not be left in any degree in the untrained & unskilful hands of purely local authorities. But there is business such as the administration of the poor laws, registration &c. which while really interesting the whole country, cannot consistently with the very purposes of local administration, be managed except by the localities. In regard to such duties, the question arises, how far the local authorities ought to be trusted with discretionary power of conducting them free from the superintendence[sic] or control of the state.

To decide this question it is necessary to consider what is the relative position of the central, & the local authorities, as to capacity for the work to be done, & securities for its being well done. In the first place, the local representative bodies & their officers are certain to be of a much lower grade of intelligence & knowledge than Parliament & the national executive. Secondly, besides being of inferior qualifications themselves, they are watched by, & accountable to, an inferior public. The public they are criticized by, & responsible to, is both comparatively limited in extent, & in general far less enlightened, while the comparative smallness of the interests involved causes even that inferior public to give its mind to the subject less intently & with less solicitude. Far less interference is exercised

by the press, & by public discussion, & that which is exercised may with much more impunity be disregarded, in

the proceedings of local, than in those of national authorities.

Thus far, all the advantage is on the side of management by the

[G\_020 verso blank]

H\_001

H

central government. But, so far as the **more** details of local management are concerned, all this is more than counterbalanced by the absence of detailed local knowledge, knowledge of local persons & things, in the central authority, & the too great occupation of its time & thoughts by other concerns, to admit of their acquiring the accurate local knowledge necessary even for enforcing responsibility in so great a number of local agents. In the details of management, therefore, the local bodies will generally have the advantage ; but in comprehension of the proper principles even of purely local management, the superiority of the central government is prodigious ; not only on account of their own superiority of intelligence, & the multitude of thinkers & writers who are at all times engaged in pressing every kind of useful ideas on their attention, but also because the knowledge & experience of any local authority is merely local knowledge & experienced, **confind** to their own part of the country & its modes of management, while the central authority has the means of knowing all that is to be learnt from the united experience of the whole kingdom, & easy access to that of foreign countries besides.

It is therefore a necessary part of the local administration

that there should be for every branch of it a central organ, even if that central organ does nothing more than collect information from all quarters, & bring the experience acquired in one locality to the knowledge of another where it is required. The general government ought to keep open a perpetual communication with the localities, advising & informing them, giving advice freely whenever asked, & volunteering it when seen

H\_002

to be required ; compelling publicity & recordation of proceedings & enforcing obedience to every general law which legislature has thought fit to lay down with respect to local management. That such laws frequently ought to be laid down, is most evident. For example, all local rates ought to be voted exclusively by the local representative body ; but that body, though elected solely by ratepayers, may raise the local revenues by imposts of such a kind, & assessed in such a manner, as shall throw a disproportionate share of the burthen on the rich, the poor, or some particular class of the population : it is the duty of the legislature therefore to prescribe the particular sorts of taxes & mode of assessing them, which alone it shall be permitted to the localities to use. Again, in the administration of public charity, the whole industry & morality of the labouring population depends, to a most serious extent, upon adherence to certain fixed principles in awarding relief : & though it belongs essentially to the local authorities to decide who, according to those principles, is entitled to it, it is for the national parliament to be down the principles, & it would have

neglected a most important national duty if it had not prescribed, & made imperative certain general rules according to which the relief ought to be given. Where Parliament has not interfered, neither ought any **branch** of the executive to interfere authoritatively ; but as an adviser & critic, an enforcer of the law, & a denouncer either to Parliament or to the local constituencies of conduct which it deems condemnable, the functions of the Executive are of the greatest possible value. It may be said, that however much the central authority may surpass the local in knowledge of principles,

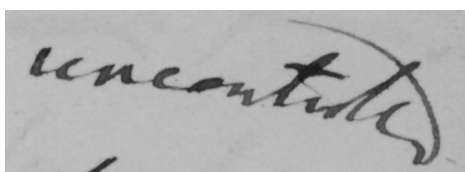
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the grand object of the social & political education of the citizens requires that they be left to manage these things by their own however imperfect, lights. I answer, that this is a complete misunderstanding of the use of popular institutions as a school of administration. Though better than no education at all, it is a very imperfect education which associates ignorance with ignorance, & leaves them to struggle on to knowledge if they wish for it **unassisted**, & to do without it if they do not. What is wanted is to make ignorance aware of itself, & teach it to profit by knowledge ; to accustom minds which know only routine, to act on, & feel the value of, principles : to make them **compare** different modes of action, & learn, by the use of their reason, to distinguish the best. It is an old remark, Such[sic] as the schoolmaster is, such will be the school : it is as true of the indirect schooling of grown people by institutions, as of the direct schooling afforded to the youth



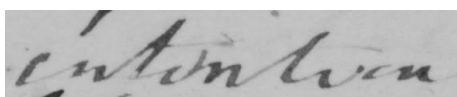
at academies & colleges : & there need be no \_\_\_\_\_<sup>(5)</sup> that the schoolmaster will carry matters too far, & supersede the independent action of the pupil's mind, when he has no powers of compulsion, & can employ no agency to get the work done except that of the pupils themselves.

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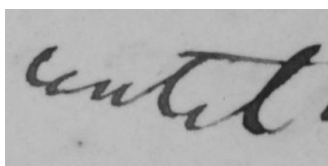
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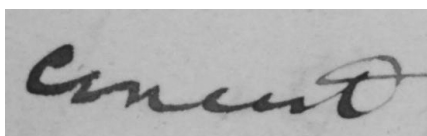
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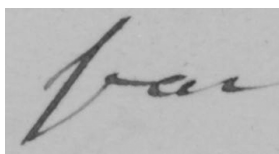


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