

SWAGER'S HOEK.

MINUTES of a meeting held on the 7th Nov. 1850, at Grootte Vlakte, in Swager's Hoek, district of Somerset (East), at which between thirty and forty respectable farmers and rate-payers attended.

1. It was proposed by Mr. T. Robson, and seconded by Mr. C. Dutton,—“That Mr. David Malan, senior, take the chair.”—Carried unanimously.
2. Proposed by Mr. C. Dutton, seconded by Mr. Jacobus Smit,—“That Mr. Frans Massyn act as Secretary to this meeting.” Carried.

The Chairman then stated that the meeting had been called by Mr. T. Robson, residing at Grootte Vlakte, at the request of the Secretary of the Road Board for Somerset (East), who had forwarded to him a number of printed documents, comprising the Government notices of the 25th September and 2nd of October, 1850, the letter of the four Unofficial Members, dated the 21st of September, 1850, containing their reasons for resigning, &c. &c. and the report to his Excellency by the officials; all of which the Chairman intimated should be carefully read to the meeting, trusting it would give its candid opinion on the subject it had been called to discuss, entirely divested of all individual prejudice for either party. The letter of the Secretary of the Road Board and Mr. Robson's answer to it having been read, the Chairman requested the Secretary to read the above-mentioned documents, slowly and distinctly; after which they were thoroughly explained for the benefit of the few who had not a perfectly distinct view of

the difference existing between the two parties Cape Town.

The following resolution was then proposed by Mr. Robson,

“1. That this meeting is of opinion that it is the duty of every one present to consider and weigh well in their minds the perplexed state of the Colony at this time, believed to be caused by the resignation of the four Unofficial Members, and that we, without partiality or prejudice, give our opinion on the different statements read to us to-day, as contained in the printed documents.”

After much discussion, it was evident all present were fearful of embracing either side. The resolution was consequently not carried.

2nd Resolution. Proposed by Mr. H. Erasmus, and seconded by Mr. Thos. Robson,—“That this meeting will not pledge itself to any form for a proposed Constitution that has not for its object the removal of the seat of government to a more central position.”—Carried unanimously.

3rd Resolution. Moved by Mr. R. Veitch, and seconded by Mr. W. Cawood,—“That, in the opinion of this meeting, the whole Colony would have benefited more, had the four Unofficial Members continued to hold their seats in the Legislative Council, believing that as much or more could have been accomplished by their protesting against such measures as they might consider injurious to the Colonists.”—Carried by a majority of three.

4th Resolution. Moved by Mr. Emanuel Petersen,

seconded by Mr. T. Robson,—“That this meeting is of opinion Sir A. Stockenstrom and J. Fairbairn, Esq., do not sufficiently merit the confidence of the Colonists to warrant our returning them as efficient persons to represent the Colony of the Cape of Good Hope in her Majesty’s Parliament in England, and that consequently we most decidedly refuse any support towards the expenses incurred by their voyage to Europe.”—After much argument, *pro* and *con*, the resolution was put to the vote, and carried by a large majority.

The meeting then broke up, and although several spirited discussions had taken place, the greatest equanimity of temper was preserved throughout, and all parted most amicably.

(Signed) T. ROBSON.

UITENHAGE.

Uitenhage, 18th Nov. 1850.

To the Hon. W. Cock and R. Godlonton, Esquires,
GENTLEMEN,—We, the undersigned, inhabitants of the town of Uitenhage, beg to express the highest satisfaction in bearing testimony to your upright and loyal conduct in the late Legislative Council, and which has shown itself still more conspicuous by the conduct of the four members, whose attempts to embarrass the Colonial Government, to the injury of the Colonists generally, is very properly repudiated by every right-minded man in the Colony.

In conclusion, Gentlemen, we feel assured that whenever the new Constitution is framed for this Colony—(trusting as we do most sincerely that your

healths and lives may be spared),—that from the confidence already with which you have so *justly* inspired the Colonists, that you will stand in the most prominent situation at the first “general election” of members for the Albany Division of the Eastern Province, viz.—“The head of the poll.”

With every consideration, we have the honour to remain, Gentlemen,

Your most obedient servants,

| | |
|----------------------|---------------------|
| J. C. Hitzeroth | J. Curtis |
| Col. A. B. Armstrong | George M. Brunett |
| Christopher Emmet | C. J. Krog |
| George Brehm | L. Jones |
| J. Crowe | Thomas Watts |
| John Niblett | T. Kelsey |
| John C. Chase | H. O. Lange |
| Joseph Charlton | Frederick Hitzeroth |
| John F. Emmott | Robert Pannell |
| W. R. Merritt | John Cadle |
| Thomas Charlton | A. A. Frantz |
| William Thompson | James Lance |
| Joachim Brehm | Matthias Hall |
| Thomas Thompson | Horatio Emmott |
| William Cadle | K. E. Greener |
| J. Hood | H. W. Alexander |
| John Stow | J. M. Fleisher |
| Jonathan Clark | David Rees |
| William Francom | John Fleetwood |
| George Davison | John Knap |
| Thomas Shaw | H. Watson |
| Ant. Forrest | Wm. McIntosh |
| John Younger | H. Allison |
| F. J. Noyce | W. H. Emmott |
| Robt. Gunn | T. Jones |
| C. J. Albo | A. C. Dormehl |
| F. Stanley | Dan Hurtur. |

IN our last number was closed a series of articles, by an esteemed correspondent, "On the necessity of a balance of power in a constitution," in which he has proved by reference to the history of Greece, Rome, England, France, and America, the necessity of such a balance, and the evils which invariably arise from its absence.

There has been little or no allusion in these papers to recent events at the Cape; but the application must be obvious. A new Constitution is to be established in this Colony, and it becomes those who are concerned in its preparation to take care to avoid the evils depicted by our correspondent as resulting from the absence of a balance of power. To-day the same writer commences the discussion of the question, "Will the proposed schemes for our new Constitution afford a balance of power?" He has already exposed the fallacies by which the popular draft is supported, and if the whole question should be answered in the negative by arguments so cogent, and evidence so unquestionable, as our correspondent is accustomed to employ, it is not too late to amend those schemes. We await our correspondent's conclusions,—simply for the present recommending his papers to the careful attention of our readers.

WILL THE PROPOSED SCHEMES FOR
OUR NEW CONSTITUTION AFFORD A
BALANCE OF POWER?

No. 1.

SANGUINE precipitance and a want of due experimental calculation have brought irreparable ruin on thousands. All the wild schemes, from the South Sea bubble down to the crisis of the Railway mania, have gained their rapid impetus and equally rapid explosion from speculative and enthusiastic minds pretending some subtle *clairvoyance* into the future, and by a magic mesmerism throwing innumerable victims into a state of *coma*, out of which nothing but the shock of ruin can arouse them.

We profess ourselves, speaking *mesmerically*, not to be *under influence*. We endeavour to look clearly at the matter of fact of the present, as well as hopefully to the future. We might easily shut our eyes, and fall into a dream; but our dream might be deceptive, and our sleep too long: we therefore prefer to keep our eyes open, and to persuade others to do the same.

With this intent, we would follow up our former papers ON THE NECESSITY OF A BALANCE OF POWER IN A CONSTITUTION, with the enquiry,—WILL THE SCHEMES PROPOSED FOR OUR NEW CONSTITUTION AFFORD SUCH A BALANCE? We would lay down clearly at the outset of this enquiry, that the great question about which so much discussion has been held, both publicly and privately, is really not *whether*

property ALONE should be represented in the Constitution? but, if looked into with open eyes, is, *if property should be* AT ALL represented? This is the point truly at issue. For in a colony which has no hereditary aristocracy, and in which, contrary to all sound precedent, it is at present proposed to have an elective Upper House,—if, in the words of one of the framers of what is called, for distinction's sake, the People's Constitution, "Government is instituted chiefly for the protection of property,"—property, we conceive, must form the check and balance to popular precipitance and democratic irresponsibility.

For we enquire, I.—*Would moral qualification give a check and form a balance?* We are told "intelligent public opinion would constitute the upper chamber, a much better breakwater than any property qualification,"—that "the highest qualification, any man could have is the entire confidence of the whole inhabitants of the country,"—and that "if you fetter the people in any way (referring to the proposed restriction of voting for those having a property qualification) you will at once cease to hear their own instinctive voice, which sounds so much like the voice of God," and again, "of the good sense of 180,000 people." Can we believe that all this is spoken of a people one-third of whom have only very recently been emancipated from slavery! We by no means wish to speak disparagingly of any, the poorest or most ignorant of the community;—but we ask of those who best know the colony, where are we to look for this so general *intelligent public opinion*, which is to be the breakwater—against what? Against itself. Who is the

man in the colony, rent as it is at present into party and faction, who is to have the *entire confidence of the whole inhabitants of the country*? There is not a man who would obtain it. What restriction to voting for men of property could fetter the people more than the misrepresentations, and the prejudices, and the actual political hatred, and fangs of discord which are tearing this once peaceful colony? Who that reads how voters are influenced, as the many unquestionable correspondents to this party attest they are, in the country districts, would have any confidence in "*their own instinctive voice, which sounds so much like the voice of God*?" Who that knows the present low state of education throughout the colony,—the utter ignorance amongst the peaceful majority of what is transpiring beyond their very neighbourhood,—the fact of their being thoroughly unacquainted with what the anticipated change in the constitution really means,—who, that is familiar with all this, would be willing to jeopardize the welfare of the whole colony to the *good sense* of such a constituency, composing the larger proportion of the 180,000, or to defend, only by so frail a barrier, that property which one who would throw us on the people's *good sense* tells us is, "a divine institution, over which law has no control?"

But we conceive there must be some misunderstanding about the term *qualification* for a Member of the Upper House. If by qualification were meant fitness for such membership, and it were urged that property alone imparted that fitness, we could understand the appositeness which has been advanced of election to the House of Legislature, with the Queen appoint-

ing a Governor or a Secretary. But we understand by *qualification* not so much *fitness* as *security*. The Queen, it is true, may appoint a Governor or Secretary without asking has he £3000 or £4000; but she appoints him from his known or supposed fitness or deserts. He is recommended by her Ministers as competent for the post assigned him; he is ordinarily a tried man, proved capable and worthy of his post; he is wholly responsible, and may be recalled at any moment for misgovernment or mistake. But by the qualification of a member is meant something more than his bare fitness. Those who entrust the legislation, which regards their own and the public property to him, require *security*. His having property at stake is a guarantee to them that property will not be rashly meddled with. An apposite case to his we conceive to be that of a manager of a large mercantile or banking company, from whom his employers would not require £4000 as a *qualification* in the sense of *fitness*, but of whom they would require it *per se, aut per alium*, in the light of *security*. Now, we question if any public company would be satisfied with *moral security*; as men of any knowledge of the world, we believe they would not entertain it as a guarantee. Let a man of the highest character attempt to raise a loan from any public body on such *seeming security*, however unexceptionable in itself it may appear, and he would find the common sense against him. And if the interests of any joint-stock company would not be deemed satisfactory if leaning only on *moral security*, much less can the interests of an entire colony. Moral qualification, then, we hold to be no *security* in the

point at issue ; and if so, affording no check to popular rashness, and no balance to give property its due weight, if property be at stake.

II.—*Would £1000 qualification for a member of the Upper House afford a balance?* If by this be meant a *nominal property* of £1000, it is vain to ask the question. For a property might be bought to-day, and be mortgaged nearly to its whole amount to-morrow, in any political struggle, merely to qualify. But we are told “that in the Lower House property will have its full representation.” We have no guarantee for this. It may, or it may not. Out of the 46 members there may be a few possessing property,—there may be some possessing their £2000 fixed property, or their £4000 mixed ; but the great probability, judging from experience, is, there will not : for “the great evil of universal suffrage,” writes Lyell :—“is the irresistible temptation it affords to a needy set of adventurers to make politics a trade, and to devote all their time to agitation, electioneering, and flattering the passions of the multitude. The natural aristocracy of a republic (and of a colony) consists of the most eminent men in the liberal professions,—lawyers, divines, and physicians of note, merchants in extensive business, literary and scientific men of celebrity. And men of all these classes are apt to set too high a value on their time to be willing to engage in the strife of elections perpetually going on, and in which they expose themselves to much calumny and accusations, which, however unfounded, are professionally injurious to them. The richer citizens, who might be more independent of such attacks, love their

ease or their books, and from indolence, often abandon the field to be more ignorant.”—*Lyell's second Visit to the United States, vol. 1. p. 100.*

But allowing that in the Lower House there may be some to represent property, there is more than probability that the *majority* will not. Where, then, will be the guarantee that property shall be fairly represented, unless in the Upper House qualification; and looking at the disparity in numbers, 15 to 46, the qualification to be at all a balance should be such an amount as might be beyond the means of being attained in a great political struggle. It would be no impossible thing, in a nice balance of votes, to qualify a demagogue with £1000 to obtain a seat, and turn the scale.

But some may think there is security, though with a low qualification, from the proposal that the members of the Lower House shall consist of *those elected from particular districts, while the Upper House would be elected by all the voters in the whole colony.* But nothing would be easier than for a designing and watchful committee of central management to have an agency throughout the whole colony, who should propose and canvass for particular men: and with what effect such a committee can work is too well known.

A difficulty also is raised,—that if property be the qualification, a man may have property to-day, but to-morrow, by the decease of his wife, his property may be divided, and his qualification cease. And in like way, if the House were filled with needy adventurers, or with the holders of a nominal £1000, any

of them might on the morrow be insolvent, or find politics not so profitable as some other scheme, and so be disqualified by bankruptcy, or by a sudden transition to a new place or pursuit leave a vacant seat. Contingencies must occur in either case. Since, then, it is more than probable that property would not be fairly represented in the Lower House, the only way in which the Upper House could act as a balance would be the guarantee, by a high amount of qualification, that property there at least should be represented and protected.

III.—*Would the members of the two Houses, being elected by the same constituency, afford a balance?* We conceive not,—even if there were a higher qualification for voters than that proposed; but with the almost *universal suffrage* at present contemplated, it is a perfect delusion to suppose so. As far as any real balance would be effected, we might as well have but one House, with increased Members. If, as is supposed, the Lower House is to represent the people, as distinguished from property, and the Upper House to represent property, though not distinguished from the people,—if the people vote for its own protection, it is but safe and equitable that property should vote for the representatives which are to protect its interests. Let there be no difference in the constituency for electing Members for the two Chambers, and no qualification, or a very low one—or nominal one—for the members of the respective Houses, and what defence has property? Where is its balance against mere arbitrary power? What shall hinder, to the exclusion of long residents, a host of needy adventurers, with

eager and hungry expectation, making a mere speculation of a seat in either House,—men put in by a party, and to serve any party turn,—men who neither represent the Colony, nor care for its protection or its peace, but who want some arena where they may display their *cacoethes loquendi*, or some agitation through which they may be jostled into place?

The history of the American Assemblies must convince us that there is a tendency, wherever universal suffrage prevails, for the electors to *talk over* those who are to represent them,—to make conditions on which they return them, and to make employment for those that are needy. Against this a higher constituency for an Upper House would materially work. On such terms as those supposed, few electors having property, or few candidates of large property qualification, would give or receive suffrages. Property, therefore, electing property to represent it, seems the only sure check to political adventurers, and the only safe balance to the undue weight of universal suffrage.

Our present balance, assuredly, seems but a very critical one. A rash and precipitate determination may plunge us into ruin; while calm, and dispassionate and temperate measures may restore our lost tranquillity and ensure our future progress. We need fair, judicious, unprejudiced enquiry into our present state, and what mode of government, and with what checks and balances, we really need. It is the opinion of Humboldt, Cordier, and others, following the hypothesis of Leibnitz, that volcanoes are caused by the earth's surface, when in a state of incandescence, cooling more rapidly than the interior parts, thus

occasioning, from the unequal contractions, cracks and fissures, through which water being admitted, occasions at length the violent disruption. We have need to ask if there may not be similar causes at work, which may result in a moral earthquake and political volcanoes amongst ourselves. Our *amorphous* society has for near two years past been in a state of fusion, and though superficially we may have cooled a little, the rents of disaffection and the ruptures of animosity are, alas! too visible. We need but a flood, nay, a mere waterdrop, infused on the still hot, though smothered, enmity which is lurking beneath the surface, to cause the devastating lava-stream to pour out its scathing current,—withering our peace, desolating our homes, and changing our Colony of Good Hope once more to the Cape of Storms. “Anarchy and government are both before us, and in our choice. If we fall, we fall by our folly, not our fate; and we shall evince to the world of how small influence to produce national happiness are the fairest gifts of heaven,—a healthy climate, a fruitful soil, and inestimable laws,—when conferred upon a frivolous, perverse, and ungrateful generation.”

The *Advertiser*, of last Saturday, charges Mr. M. Blake with travelling about the district of Swellendam to obtain signatures to a Memorial against the £25 franchise, and has garnished his article on that subject with some personalities which we forbear to characterise.

The leaders of the party of which the *Advertiser* is

the principal organ, must be made to know that they cannot stifle public discussion, and force their opinions without deliberation upon the Colonists by these personal attacks upon those who presume to differ from them. It is true that the £25 franchise was adopted by both sections of the late Council ; but if Mr. Blake thinks differently upon the subject, he has a perfect right to express his opinion, and is adopting a perfectly constitutional and proper course in endeavouring to persuade others to adopt his views. The attempt to silence him by a personal attack is another instance of the oppression and tyranny practised under the name of liberality.

A SOMEWHAT novel style of newspaper warfare has been adopted by the democratic organs. Unable to question our facts, or fairly to meet our arguments, they complain that our articles are anonymous ; and themselves sensible of the absurdity of a charge which might be brought with equal truth against the *Times*, the *Chronicle*, or the *Spectator*—or, indeed against any newspaper that ever existed—they hint, with a mysterious attempt to make it appear that they know more than they express, that this journal is conducted by persons in the employment of government.

This absurd charge was first made in the columns of the *Zuid Afrikaan*, and was last week repeated in the *Cape Town Mail*. The *Monitor* was not, indeed, mentioned in either of those papers, it being the policy of our democratic contemporaries to suppress all mention of this journal by name. But we shall not affect to

misunderstand the allusions by which those who have failed to answer our arguments are attempting to damage our personal credit.

Not only are we anonymous, but we intend to continue so ; and, as we are not responsible to our contemporaries, we deny their right to interfere with matters in which they are not concerned. We are responsible only to public opinion, by which alone a newspaper can be supported ; and we believe that the judgment of public opinion on our writings will be guided by their truth, and not by their authorship.

Truth is truth, no matter who writes it. If the articles in this journal are not true, no author's name can render them respectable : if they are, no author's name can damage their credit and effect.

It is quite a novel theory that the truth of any statement, or the justice of any argument, depends upon its authorship. If any misstatement has been made, let it be exposed : if any unsound argument has been employed, let it be refuted : but let us have no more of this cant about anonymous writing in newspapers.

The most respectable press in the world—the Press of England—has always been anonymous : nor has any one ever pretended that that circumstance has lessened its weight with the public. On the contrary, what our contemporaries are attempting to do here is precisely what has lately been done in France, with the avowed intention of destroying the power of the press. The *Times*—an anonymous newspaper having a larger circulation than any other newspaper in the world—thus describes the effect of the new French law which requires the signature of the author to be

appended to all political articles :—" The French law takes away the liberty of speaking anonymously : it destroys those associations which most powerfully affect public opinion. In the true spirit of democracy it refuses to submit to any inequality of position between man and man : in the true spirit of despotism it prohibits the language of criticism in any form but that of a personal discussion, at the peril of the remonstrant."

Now, to this tyranny we will not submit. Those who will, may parade their names as public writers : we prefer to enjoy the usual editorial immunities. We shall strive to promote the spread of anti-democratic opinions by every means in our power ; but having no personal purpose to serve, we shall make no personal parade. No writer in this journal is striving to write himself up to a seat in the Council, or on the Bench. Content with our position as public writers, we have no desire to figure as demagogues, party leaders, or declaimers at public meetings. The press of this Colony has been too often degraded already for such purposes ! Our sole purpose is to disseminate truth, and from that we shall not be diverted.

THE CAPE MONITOR.

Cape Town, Friday, December 13, 1850.

THE principal actors in the late political contests have, for a time, retired from the scene. The Governor has been called away from Cape Town, by the dis-

turbed state of the Frontier. The leading officials are engaged in the performance of their executive duties. Mr. Fairbairn is by this time far advanced on his voyage to England. Sir A. Stockenstrom has gone "back to his flocks." Mr. Reitz is congenially and more appropriately employed in writing letters about Ayrshire cattle, and other agricultural matters. Mr. Brand—his dreams of elevation to the bench having been dispelled—has again devoted himself to his professional avocations, or to the preparation of lectures, said to be on law, but believed to be on democratic politics. And Mr. Wicht is believed to be "drinking deep at the generous spring of English literature."

The action of the political drama being thus, for the time, suspended, the proper season for criticism has arrived, and the proceedings of the principal performers are proper subjects for examination. Some of these proceedings have been already pretty freely discussed, and we have not scrupled to condemn where we thought condemnation was deserved. Our strictures have hitherto been directed less against the opinions expressed by the democratic leaders, than against the means they have adopted for disseminating those opinions. We blame no man for honestly maintaining and urging the adoption of his own political sentiments. A conscientious Chartist is entitled to as much respect and consideration as any other conscientious man. But when an individual attempts to propagate his opinions by falsehood, fraud, and fiction, then, be he Chartist, Tory, Whig, Radical, or Conservative, he deserves to be held up to public reprobation.

Now, a glance at what is termed, for distinction's sake, "the People's Constitution," will enable the reader to discover some palpable deceptions practised by the framers of that document, which have either not been exposed at all, or only lightly touched upon. For example: after agitating and distracting the Colony from end to end to ward off the pollution of convictism, they admit into their proposed Legislature convicts who have undergone punishment, and are not actually, at the period of election, "undergoing punishment and restraint under a judicial sentence for any crime:" again—in the Legislative Council, they represented it to be essential that the two Houses of Parliament should be elected for the same period; in their draft they provide that the Council should be chosen for four, and the Assembly for five years, but neutralize this provision to a great extent, by denying to the Governor the right of dissolving one House without dissolving both: in the Council they voted against a property qualification for Members of the Upper House; in their draft we find a qualification provided for, which is, however, a specious deception, being in fact, and effect, no qualification at all.

These and other such matters, however unimportant in themselves, are valuable, as showing the *animus* of the authors of the document referred to. Taken in connection with other deceptions of the same party, with which our readers are familiar, they shew that the proposals of the democratic leaders are not dictated by conscientious conviction, but by considerations of temporary expediency: and they will induce the public

to scan narrowly those proposals, and to adopt them, if at all, on their own merits, and not through faith in their authors.

If judged by its own merits, "the popular Constitution" is pretty certain to be rejected. Having in former papers endeavoured to elucidate the means by which its authors obtained their influence, and hoped, by the *prestige* of their names, to force their Chartist doctrines upon the people of this Colony, we proceed to advert, briefly, to some of the provisions of their Constitution, to which the public opinion of the Colony is now clearly opposed.

Hitherto we have remarked only upon the Constitution of the Upper House, as proposed by the seceding members of the late Council, deeming that to be the most vital point at issue: and our numerous correspondents, from all parts of the Colony, have shewn that there is a strong feeling abroad opposed to the tenets which have been blindly adopted by the dupes of the democratic leaders. The thinking portion of the community have not failed to perceive, that the adoption of that Constitution must have the effect of placing all political power in the hands of demagogues who can influence the uneducated masses of the Colonists. Various expedients have been proposed for frustrating this design,—for the opponents of the democratic movement are by no means unanimous in adopting the draft proposed by the Government Commissioners. The Board of Trade, apprehensive of the tendency towards democracy, which a community constituted like ours was likely to display, hoped to obviate it, by recommending a peculiar constituency for elect-

ing the members of the Upper House, consisting of a class of Government and Municipal officials. The members of the local Government proposed to attain the same end by adopting a high property qualification for members of that House. The merchants of Cape Town, supported by a large and influential party in the Colony, propose a property qualification for the electors of those Members, as the best method of securing the same result. Another party, with the same view, opposes the £25 franchise;—for, however the *Advertiser* and the *Zuid Afrikaan* may bluster, Mr. Blake is not the only person in the Colony who holds that opinion. Another would effect it by extending the duration of the Council: and others have other proposals; all, however, tending to the same result.

This is perfectly natural: the opponents of the democratic party are acting upon reason and reflection; and reason and reflection lead different men to different conclusions. The adherents of that party take their opinions on trust from their leaders, who are guided by selfish considerations of their own personal interests. But though the apparent unanimity on one side, and the diversity of opinion on the other, give to the democratic party an appearance of strength which they do not in reality possess, it is, nevertheless, perfectly clear that the large majority of the thinking portion of the Colonists have become alarmed by the levelling tendency of the doctrines held by those who assume to direct the movements of the people of the Colony, and are determined to check that tendency while it is yet practicable.

The public mind in this Colony has been unsettled

by the proposal of an elective Upper House. This provision of the new Constitution, which, having been suggested by the Board of Trade and embodied in the letters patent, has been adopted by the democratic leaders with feelings of elation, and by the Government Commissioners from a conviction that the question had been fully decided by the Government at home, is felt by all parties to add greatly to the strength of that section of the community which desires the democratic element to be controlled as little as possible by the power of the Crown or the interests of the large proprietors. That this provision has been adopted by the officials as a matter not of choice but of necessity, is sufficiently clear from the extracts of their minutes on the subject, which will be found in the article on the "Balance of Power" in this day's paper. Hence the various schemes above alluded to have been suggested, all with the purpose of curbing that inordinate power of the democrats. But a few years ago all who were in favour of the introduction of representative institutions at all, viewed a nominated Upper House as an essential part of the Constitution of a British Colony. It will be well for our Cape politicians to consider, before it is too late, whether any good cause has been shewn for their sudden departure from a sentiment formerly universal; and whether the Constitution which has succeeded in other British communities, may not be preferable here, to one which will place all power in the hands of a few ambitious individuals, capable of influencing a population thinly scattered over an extensive territory, with very scanty means of acquiring information, and very liable to be

actuated by prejudices which, once aroused, it will be extremely difficult to allay.

WILL THE PROPOSED SCHEMES FOR A NEW CONSTITUTION AFFORD A BALANCE OF POWER.?

No. 2.

ALL great political changes, however wholesome they may be in themselves, end in disappointments. They do not, *per se*, work out the imagined good which enthusiastic and theoretical minds supposed, and which a too credulous community believed they would. We remember, during the most violent agitations of the Reform Bill, that many who thought themselves aggrieved (in whatever way), looked to the passing of the bill as to a *panacea* against every grievance. The Reform Bill was to overleap the narrow conventionalities of every custom that was old; to break "the ancient solitary reign" of every bloated abuse; "to crumble every brazen wrong into dust;" nay, with some visionaries, it was almost to take off the primeval curse, and enfranchise labour itself "from eating bread in the sweat of its brow." The Reform Bill passed,—and we were amongst those who hailed its passing; common sense, as well as common justice, called for the changes contemplated. It has had its eighteen years' trial; but are the *people* satisfied? Are the supposed grievances removed? Are the monster abuses crumbled? Does indolence eat the bread earned by industry? Or will activity and talent let pro-

digalism and effrontery "push them from their place?" Certainly not: the great *political change* has not effected the great *social change* so sanguinely looked for. The people still murmur. In every troublous period, SOCIALISM and CHARTISM start up, and shaking their clenched fists, cry out—"Reform was but a great sham: its effects have not relieved our millions: we must have a further change,—a *radical change*,—from the head to the roots!"

And why is this? The people are deluded. Designing men, who make the *people* their stepping-stones to power, cajole them to believe that what they clamour for is the *philosopher's stone*; it will change all to gold, and make the most barren desert a glittering California. No deceit can be more wanton or cruel than this: yet we believe there are many in our community thus deluded; many who suppose that our new constitution is to redress every imagined evil, to place us in (a burdensome) independence, and make us a rival with the most liberal institutions of the day.

It is well, then, that we should listen to those who are competent to judge; that we should be guided by the opinions of men of experience; that we should have clear notions as to the probable good or possible evil which any great change may now entail upon us. We should fairly understand that our new constitution is but an experiment; we may imagine, and even sanguinely hope, that it will evolve good and beneficial changes,—but at the same time we must not be so sanguine as to forbear to take every precaution against possible evils.

There is but one opinion as to the incompetency of

the old Legislative Council, even if that Council had not committed *felo de se*. But the question "What shall our new Constitution be?" is still open,—still a matter for deliberate anxiety; and our deliberations on it should be well matured. We should not hastily give our weight, whatever it may be, to a scheme merely because it is *popular*, or plausible, or set off with theoretic credulity of the people's *good sense and moral worth*; but our deliberations, and memorials, and recommendations should be conducted on the principle which Junius says is the intent of all laws, viz.: "*Not to trust what men will do, but to guard against what they may do.*"

With this intent, then, *viz.*, to advise our readers to listen to those who are competent of judging, and whose opinions are those of men of weight and experience, we extract in the present paper the deliberate convictions of the leading advisers and counsellors of the Colony, when writing dispassionately in 1848, and with the sole intention, we may believe, of advising what (to use the Governor's own words), *was best calculated for the greatest happiness of the greatest number*. We confine ourselves to the opinions expressed in their "correspondence and communications" to the Secretary of State, as far as they bear on our subject,—*the necessity that there should be a check and balance between conflicting interests*.

We take the several opinions in the order in which they stand in the printed document.

ENCLOSURE NO. 1.—THE ATTORNEY-GENERAL'S MEMORANDUM.

"A property qualification is often found to be a very

bad security for property, and a worse security for either intellect or character. But still it would not be safe, I conceive, to dispense with it entirely. It must tend, in some degree, to clip the wings of ambitious adventurers.

“The qualification of all others (not professional) might depend on property, and the ownership of fixed property to the value of £1000, or of moveable property to the value of £2000 would seem to me to meet the exigency of the case. The amount, in both cases, should be over and above all debts, charges, and incumbrances.”

ENCLOSURE No. 2.—HIS EXCELLENCY THE GOVERNOR'S MINUTE.

“If the formation of a representative government is to be regarded as an experiment, it is one to be founded on the precedent of the British Constitution; and if we establish it we have no resource but to give it full scope, taking care, however, so to frame the charter, that the evils may be avoided and the good retained.”

ENCLOSURE No. 3.—MEMORANDUM OF THE SECRETARY TO GOVERNMENT.

“Men of integrity, wealth, and intelligence, whether resident in the constituency they are elected to represent or not, are those best calculated and the most likely to maintain a just balance between conflicting interests, because they cannot fail to exercise a salutary control over the proceedings of such an assembly.

“I have long held the opinion that there are two forms and only two, in which good government can be exercised in our Colonial communities. * * * The

one is that of absolute government, conducted by a Governor and Council composed of responsible public functionaries ; the other is that of a representative government, as closely assimilated to the free institutions of the parent state as the relations and the condition of a dependency, in regard to that state, is capable of sustaining. As there is no safe halting between two opinions, so to my mind there is none, either permanent or satisfactory, between these two forms of the government of a dependency ; no *juste milieu* that does not, on the one hand create disappointment and dissatisfaction in the mind of the public, or, on the other hand, grant to an unchecked and irresponsible popular power an ascendancy dangerous to the interests of society, a power to which the executive becomes a mere passive instrument for the carrying out of its decisions, which are more frequently the result of transient feelings than of calm and dispassionate deliberation."

"That the Legislature should consist of two Chambers, one composed wholly of the representatives of the people, I also concur in the opinion expressed in Mr. Porter's memorandum. In regard to the other House, usually designated the Legislative Council, it must, according to the opinion I hold, be entirely elective, or consist of members nominated exclusively by the Crown. The *first of these forms*, I am of opinion, is incompatible with the condition of a dependency and the constitutional influence of the Crown. In the government of many of the States of the American Union, the elective principle has failed, in their Senate, to check the evils of democratic prepon-

derance, and hence the executive has become the mere tool or passive agent of the popular assembly,—an evil which the founders of the Union were careful to avoid in framing their system of federal government.”

“As to the composition of the Legislative Council. Against this body there will naturally prevail much popular jealousy and no little prejudice. This, I am of opinion, can only be countervailed by nominating men whose wealth, and intelligence, and social standing, give weight to their opinions and proceedings among the more intelligent and influential ranks of the people. I should, therefore, propose that, irrespective of other qualifications essential to the maintenance of the constitutional influence which belongs to such a body, no member should be nominated who is not possessed of unincumbered fixed property to the amount of £2000, or who is not in receipt of a fixed income of £500. per annum, and upwards.”

ENCLOSURE NO. 4.—MINUTE OF THE TREASURER-GENERAL.

“I am prepared to propose that the government should consist of a Governor and Legislative Council, as at present constituted, and a House of Assembly to be elected by the people. The qualification of the elected should be the possession of property, whether real or funded, in the Colony, of not less than £1000, or that of being members of the learned professions, having taken degrees at any of the Universities of England or Holland.”

ENCLOSURE NO. 6.—MINUTE OF THE LATE MR. JUSTICE MENZIES.

“It appears to be universally admitted that wherever a House of Assembly is established entirely composed of members elected by the people, there must also be a Legislative Council, consisting of official and unofficial members all nominated by the executive.”

This Council “should be so constituted as to ensure that from the personal characters and particular position in society of its members, they may be relied on as almost certain to be uninfluenced by the popular prejudices, popular delusions, and popular impulses, which sometimes influence legislative bodies entirely composed of representatives chosen by the people, and therefore able and disposed to resist the progress of injurious measures which the House of Assembly, actuated by that rash spirit of legislation which such prejudices, delusions, and impulses are calculated to produce, might unfortunately have been induced to propose or to pass. A Legislative Council not possessing this requisite, instead of answering the purpose for which it had been instituted,—namely, of interposing between the Executive and the House of Assembly, as a shield and bulwark to protect the former from the evil effects of collision with the latter,—would, by yielding to the torrent of popular opinion, give it an additional force and weight, which the executive government could not long successfully withstand.”

ENCLOSURE NO. 7.—MEMORANDUM OF MR. JUSTICE MUSGRAVE.

“I am of opinion that the Legislature should consist

of two Houses, and that they should be formed in imitation of those which exist in the British chartered Colonies in the West Indies. I am not prepared to recommend that the members of the Council should hold their situations for life, but would suggest the expediency of their being all appointed by the Crown during pleasure, for the purpose of counteracting the casual effects of any popular excitement that might arise from too free a representation of the people in the House of Assembly, and otherwise very seriously perplex and paralyze the effects of the local government in particular emergencies. The appointments would doubtless be made with a view to preserving a preponderating influence on the part of the local government, as far as might be consistent with a due regard to the interests of the people."

ENCLOSURE NO. 8. -- MINUTE OF THE CHIEF JUSTICE.

"I feel fully the force of the necessity of counter-vailing as of bestowing the powers incident to a representative legislature, and the expediency of protecting the interests of the Crown and of the people, when in the balance, by more than the single authority of the Governor; a balance only sure to be found in and through the medium of a second legislative Chamber. The resolves of a Legislative Council, if in concurrence with the Assembly, then stand before the Governor for confirmation, with redoubled strength of claim upon his own paramount discretion and disposal."

We do not conceal the Chief Justice's opinion that it would prove more satisfactory that the *popular* ele-

ment should mingle even in the constitution of the Council,—“the Crown appointing four or five civil officers and nominating two or three others, and that the other seven should become so by popular election.” But this suggestion is by no means unqualified. We let the Chief Justice speak for himself:—

“The qualification of an elective member of the Legislative Council—if to become such by election at all,—might well be *double* as to amount, in respect of the ownership of real property, or quitrent tenure, of that qualifying for admission to the Representative Assembly; and like fit qualification might also subsist in and be given to the possession of moveable property, over and above all debts, charges, and fixed liabilities, of at least £2000.”

And last of all, in Earl Grey’s despatch, we have the concurrence of the Colonial Secretary, in the main, to these suggestions; for he writes to the Governor:—

“I am of opinion that the views of yourself and the majority of your advisers as to the form of the constitution to be established, *viz.* a Representative Assembly and Legislative Council appointed by the Crown, should, in the main, be adopted.”

We do not venture to comment on these opinions; yet we would observe that in the several communications quoted from, a general feeling is (in the Attorney-General’s words), *that the constitution is an experiment*, and that the step, once taken, cannot be retraced. It behoves us, then, to look well to it, that it be in a right and safe direction; and to consider if those to whom, in all probability, the legislation will ultimately fall (if *universal suffrage* and only *nominal qualification*

be agreed upon), will consult the rights of *property* as well as the rights of the *people*, and will use their power to the good of all classes of the community, to the advancement of all just interests, and for our common prosperity and peace.

We propound this suggestion because we feel the force of the following remark :—“ In prosperous times when men feel the greatest ardour in their pursuits of gain, they manifest the most callous apathy to politics. Those who possess nothing, and have nothing to do but to manage the intrigues of elections, will prevail against five times their number of men of business. Each description is actuated by strong passions, moving in different, but not opposite, directions ! When, however, some of the great interests of society are invaded, those passions change their direction, and are quickened in it. They are then capable of defending themselves with all the vivacity of the spirit of gain and enterprise,—with all the energies of vengeance and despair. These, it must be confessed, are revolutionary resources, for the defence of property and right, which cannot and ought not to be called forth on ordinary occasions. The classes in question will be long in danger before they will be in fear ; and if their adversary forbears to push the attack in so rude a manner as to make that fear overpower all other emotions, he may proceed, unsuspected, and unopposed. They will be as much engrossed with their business as the political projectors with their plans of reforming, till they destroy it.”

It is also a remark of the philosopher HUME,—“ That it is not with forms of government as with other artificial contrivances, where an old engine may

be rejected if we can discover another more accurate or more commodious, or where trials may be safely made, even though the success be doubtful,—but to try experiments upon the credit of supposed arguments and philosophy, can never be the part of a wise magistrate, who will bear a *reverence* to what carries the marks of age. Though he may attempt some improvements for the public good, yet he will adjust his innovations as much as possible to the ancient fabric, and preserve entire the chief pillars and supports of the Constitution.”

Our proposed Constitution, though it be but an experiment, by judicious deliberation and fair dealing, and wise adaptation to the present condition and real wants of the Colony, may be productive of material and progressive advantage; but if rashly devised or unwisely used, it may impede rather than advance our actual interests. A boon surreptitiously obtained or wrongly employed may be a curse. A Prometheus may steal fire from heaven, but the mighty Titan, bound by Force and Necessity to the hard rock, and inwardly eaten by the vulture of growing remorse, is a warning to the demagogue that he may destroy himself in the very acquisition of what he seeks; and the weapon of slaughter moulded by stolen fire is an eternal memorial, that what is beneficial in itself may minister to that which is destructive.

AN ORGANIZED HYPOCRISY.

To the Editor of the Cape Monitor.

SIR,—The announcement in your paper, of the

22nd ult. of a letter received from Mr. B. Moodie, of the Swellendam district, induced me to suspend my own correspondence with you, as I felt convinced that something decisive was at hand. My anticipations have been fully realized, and we are much indebted to Mr. Moodie for showing us so clearly how political "meetings" are managed in the country villages. How satisfactory it is, also, to find Mr. Barry, who is said to possess unbounded influence amongst the Boors of Swellendam, asserting the present "*most urgent necessity of checking overwhelming Dutch interest now existing to the prejudice of the English interest.*" Better authority than Mr. Barry on this question cannot be obtained; and it will be a hard matter for the editors of the *Advertiser*, *Mail*, and *Zuid Afrikaan* to get over it? What Mr. Barry so emphatically states, is exactly what every man experienced in the colonial mind knew well enough before, and is now trying so anxiously to conceal. Had his Excellency the Governor taken the *evidence* he once proposed to have taken, respecting the new Constitution, he would have been now in a position to have explained the fact acknowledged by Mr. Barry,—a fact which has been long notorious to every Englishman in the Colony, excepting the Government officials who wrote upon this subject, with much ability as theorists, but with small success as prophets. How could they discourse otherwise than erroneously on such a subject, when many of them cannot have mixed with the country residents sufficiently to catch their real sentiments and understand their secret springs of action. Those amongst them who had some suspi-

cion of the truth were not anxious to avow it, lest they should be accused of holding "*illiberal*" sentiments. This was natural enough, but it might have been anticipated; and the ill effects of it might have been obviated, by the evidence of practical men in the Colony, capable of forming an opinion, and not afraid of expressing it, if they had a chance. Many things would then have come to light which the Home Government ought to know, but evidently do not know, and of which the principal officers of our local Government may be excused for being ignorant. The Governor, it may be presumed, confined himself, in the first instance, to the written minutes of the officials, under the impression that the discussion of such a subject out of doors, would lead to unpleasant consequences in our limited society, and would create political dissensions before their time. So far his Excellency's precaution was considerate, and would have answered its intended purpose, if the office in Downing Street had displayed its customary misgivings. But the Home Government, unfortunately, took the Governor's suggestion as the voice of the Colony, and so, between two stools, down we went! Had the English Ministry been a little less precipitate, they would never have broached such ultra-liberal views, with respect to the new Cape Constitution, as they have now sent forth. They would have estimated our capabilities better. The existence of such "*unworthy sentiments*" (as Lord Grey calls them) as national distinctions between Dutch and English would have been possibly acknowledged, or at all events provided for. It would have been more

statesmanlike in Lord Grey to have looked the danger fairly in the face, as Lord Stanley did, instead of denying the existence of the fire, because our local officials could not see the smoke. We, who are in the burning house, begin to feel it rather hot, and as we are calling for water, Lord Grey will probably relieve us with a barrel of gunpowder, "by way of *making things pleasant*," according to Mr. Hudson's "plan."

I have now, Sir, to offer a few remarks on one passage of your leading article of November 29th, wherein you state, "that if when the Colonists are called upon to elect the Members of the Houses of Legislature, they do not display more energy than they lately did when called upon to elect five Members of Council, the whole Government of the Colony may easily be placed in the hands of the nominees of the democratic party in Cape Town." But, instead of blaming the Colonists, you ought to have blamed the Government, by whose "*inadvertence*" the elections became radical ovations throughout the whole of the Western Province. In the first place, there was no occasion for any so-called popular elections at all. The Governor could have obtained as many Councillors as he wanted, by simply stating for what emergency they were required. In that case he might have selected men of quite as much ability as those returned by the Municipalities and Anti-Government Associations,—less warped in judgment by a partizan spirit, and at the same time of political views so chequered, that the subject of a new Constitution would have been carefully handled, and public opinion fairly elicited, during their debates. This was mistake

the first ; and the second was sanctioning the late so-called elections on a principle so unjust, and so palpably prejudicial to the agricultural interest, that the radical Municipality of Cape Town, and their satellite cliques all over the country, were virtually supported by our rulers ; whilst Her Majesty's loyal subjects, and the friends of good order, were quietly dropped on the wrong side of the hedge. It was clear, from the first, that the Anti-Government faction had the game placed unreservedly in their own hands, and what was the use of our attempting to fight against long odds,—or of our attempting to struggle against a combination of circumstances, all tending to destroy the *national* equilibrium of the Colony, and to reward with place and power the tactics of an “organised *hypocrisy*,” only biding its time to grind the English colonists ?

Yours truly, &c.

A LANDOWNER.

GRAAFF-REINET.

THE following address, now circulating in Graaff-Reinet, has been forwarded to us for insertion:—

To His Excellency Lieut.-General Sir H. G. W. SMITH, Bart., K.C.B., Governor and Commander-in-Chief, &c. &c. of the Colony of the Cape of Good Hope.

MAY IT PLEASE YOUR EXCELLENCY,

We, the undersigned, Landowners and others of the district of Graaff-Reinet, beg to convey to your Excellency our sincere thanks for the prompt and

energetic measures adopted by your Excellency for securing to this Colony those Representative Institutions which Her Majesty has been graciously pleased to grant us,—Institutions which we were apprehensive would be indefinitely postponed, by the precipitate, ill-advised, we had almost said factious, resignation of the late *soi-disant* “popularly-elected” members of the Legislative Council, to whom, *inter alia*, the duty of framing the new Constitution was confided by the public.

We avail ourselves of your Excellency’s notice of the 2nd ult., and while conveying to your Excellency our general approval of the Draft Constitution submitted to your Excellency by the Board of Commissioners, we would respectfully take exception to the recommendation of that Board on the following points.

We are of opinion, that in the present condition of the Colony, it is unadvisable to fix the electoral qualification at the low standard recommended by the Board of Commissioners. It would be easy for the future Parliament to extend the suffrage, if found expedient or necessary, but difficult to disfranchise those who have once enjoyed the privilege of voters. We would therefore respectfully recommend that the proprietorship or occupancy of fixed property of the value of £100, be considered the electoral qualification for the House of Representatives, and £500 the qualification for electors of the Legislative Council.

Qualified voters for the Legislative Council to be eligible for a seat in the Representative Assembly. The qualification for members of the Legislative

Council to remain as recommended by the Board of Commissioners.

We beg leave to subscribe ourselves,
 With the greatest respect,
 Your Excellency's most obedient Servants.

UITENHAGE.

A COPY of the following address to His Excellency, in the course of signature in the Uitenhage district, has been forwarded to us for publication:—

To His Excellency Lieut.-General Sir H. G. W. SMITH,
 Bart., K.G.C.B., &c. &c., Governor and Commander-in-Chief of the Cape of Good Hope, &c. &c.

The Memorial of the undersigned, *landowners*, occupiers, and others, residing in the northern part of the district of Uitenhage and its neighbourhood,

RESPECTFULLY SHEWETH,

That the warmest approbation is due to your Excellency, for your conduct during the sittings of the late Legislative Council, and while they would wish to offer their unqualified approval and most cordial support for the manner in which you endeavoured to carry out the public business, they cannot but deeply regret that the welfare of the Colony should have been sacrificed to an ambitious and party spirit.

Your Memorialists cannot too highly express to your Excellency the gratitude they owe to yourself and the members who retained their seats for the faithful discharge of public duty, as evinced throughout the whole proceedings of the late Council, and for taking

such a noble stand on behalf of free and enlightened, but safe institutions.

Your Memorialists desire also to inform your Excellency that they are decidedly opposed to that form of a constitution framed by the four seceding Members, as being only suited to the purposes of a party; and in stating their want of confidence in the person deputed to convey that document to England are only mildly expressing their sentiments towards him.

That Memorialists are of opinion that the Upper House or Council should be composed of members possessing a considerable amount of fixed property within the Colony, certainly not less than £2000 over and above all incumbrances, and also that they should be elected by a different class of voters to those admitted to the franchise for the Assembly; and Memorialists would suggest that no one should be entitled to vote for members of the Upper House, who does not come under one or other of the following classifications, viz. :—

Persons owning or occupying fixed property within the Colony of the value of £500.

Persons holding commissions as justices of the peace, field-commandants, and field-cornets.

Municipal commissioners and wardmasters, members of the legal profession in actual practice, clerks and others receiving salaries, not under £100 per annum.

And your Memorialists are also of opinion, that the mere occupation of land of the value of £25 is not sufficiently high for electors to the Lower House; it will in the present uneducated state of the Colony, Memorialists fear, tend to bribery and corruption,

Your Memorialists hope that the time is not far distant when the seat of government must be removed from the extreme west to a more central part of the Colony.

Your Excellency's Memorialists, in taking their leave, beg to express their admiration at the promptness with which you visited this frontier at the first sound of alarm; it increases that confidence in your Excellency which they previously felt;—and they now beg to subscribe themselves your Excellency's most humble and obedient servants.

THE CAPE MONITOR.

Cape Town, Friday, December 20, 1850.

COMMUNICATIONS continue to reach us from all parts of the country, shewing the distrust and alarm which has been excited in the minds of the people, by the democratic tendency of the Constitution proposed by the late Members of Council and their adherents. The following specimens are given in continuation of the extracts of memorials and addresses published in a former number.

The Graaff-Reinet Memorialists complain of the “precipitate, ill-advised, we had almost said factious, resignation of the late *soi-disant* popularly elected Members of the Legislative Council, to whom, *inter alia*, the duty of framing the new Constitution was confided by the public.”

The following is from the Uitenhage address, also given in our last number :—

“Your Memorialists also desire to inform your Ex-

cellency, that they are decidedly opposed to that form of a Constitution framed by the four seceding Members; as being only suited to the purposes of a party; and in stating their want of confidence in the person deputed to convey that document to England, are only mildly expressing their sentiments towards him."

To these may be added the Graham's Town address, published in to-day's paper, in which the petitioners urge the necessity of a more restricted franchise for the Upper House than that proposed by the "popular" draft, in order "to impose a check on the hasty legislation of that (the Lower) Chamber, to rear a bulwark against popular indiscretion, and to afford a safeguard to property, and establish a counterpoise to the too free enactments of a class who possess no permanent stake nor interest in the Colony."

It is also stated that the draft, known as "Mr. Maynard's Constitution," which proposes a high property qualification for Members and Electors of the Upper House, has been numerously and respectably signed, and that similar addresses are in preparation in several other places, in which no opinion has hitherto been publicly expressed.

These facts are quoted in order that our readers may clearly understand that our statements on this subject are not, as some would make it appear, the mere "pratlings" of a few interested individuals in Cape Town, but that they are supported by a large and influential party throughout the Colony; that those who really think upon these matters, and are not influenced by unsupported assertions, see the danger by which they are threatened, and are determined to avert it,

though they may not be agreed as to the exact measures which are to be taken to ward it off.

It is recorded that when Mahomet forbade his followers to eat the flesh of swine, he gave as a reason that there was one part of the animal which no true Mussulman could swallow without endangering his eternal salvation. For a time the prohibition was religiously observed, but afterwards the faithful began to consider it a hardship that they should be forbidden to eat pork because one part of the pig was unclean. Accordingly they began to speculate which portion of the carcase a believer could not swallow without danger to his soul. One party believed that the peril resided in the ribs, and that they could eat the legs in safety, another eschewed the legs, but feasted in fancied security on the ribs :

“ Much controversy straight arose ;
 These chose the back, the belly those ;
 By some 'tis confidently said
 He meant not to forbid the head :
 While others at that doctrine rail,
 And piously prefer the tail :”—

so that a party of Mahometans might dine together on a carcase of a porker, each confidently believing that his neighbour was swallowing the forbidden morsel.

Just as it was with the Mahometans and the swine, so has it been with the Cape anti-democratic and the “popular” Constitution. All saw the danger, but each fancied it was to be found in a different clause. One complained of the £25 franchise : one of short Parliaments : one of no-qualification for Membership of the Upper House ; and thus while differing as to

the quarter in which the mischief was to be found, the party, taken collectively, was in imminent danger of devouring the whole democratic hog.

It is satisfactory, however, to know that there is now a general agreement as to the real nature of the danger, and the manner in which it is to be met. We expect none to go back from opinions they have publicly espoused. Those who, hoping for nothing better, have signed for an elective Council with a high property qualification, cannot be expected now to declare in favour of a Council which shall not be elected but nominated. It is now, however, well understood, that the Constitution which would be most acceptable to the large majority of those colonists whose opinions are deserving of any consideration, is that which by giving to a nominated Chamber concurrent legislative power with a lower Chamber freely elected by the people, would enable the holders of property, who would unquestionably be selected for the former, to exercise a salutary check upon the democratic tendencies of the suddenly enfranchised paupers of the Colony.

A doubt may be entertained, and has been freely expressed, as to the wisdom of bestowing the electoral franchise on a class who cannot be supposed to have thought deeply upon the important political questions which must, from time to time, come under the consideration of the Cape Legislature. How far a Hottentot or a liberated African may be capable of forming an enlightened opinion on the judicial system of the Colony, the best management of the Kaffirs, or the most eligible means of establishing a defensive

force, any man may be permitted to doubt without suspicion of political heresy. It is but a question of degree. When we depart from the principle of universal suffrage and adopt the £25 qualification, it is surely open for any thinking man to say why he believes that the amount of qualification has been fixed too low. But since it has been decided by preponderating authority,—the local officials, the Board of Trade, and the Cape Town democrats, all concurring,—that the £25 qualification is a sufficient assurance of the wisdom and political good sense of the electors, so be it: the experiment must be tried. But the same authority should have due weight as to the Constitution of the Upper House. The officials, one and all, have deliberately recorded their opinions, that this Chamber should be nominated by the Crown: the democrats, as will be seen from the letter of our well informed and influential correspondent “Looker-on,” a few years ago petitioned for the same arrangement: the Board of Trade have recommended it for all British Colonies, and in making this one exception, have advised the establishment of a most limited constituency with a high exclusive qualification. All experience points in the same direction: enlightened public opinion in the Colony is daily declaring itself in favour of the same principle: that property will be endangered, peace jeopardized, and the prosperity of the community seriously checked, unless the advisers of the Crown are persuaded, in accordance with the more matured views of the Colonists, to recede from the dangerous step they have recommended, and for a time at least, to assimilate the Constitution of this

Colony, as far as may be, to that which has been found generally successful in England, and in Canada, and in every dependency of the British Crown in which it has been tried. This question has again been ably treated this week, in the Article on the "Balance of Power," and the proposal made by the author of that interesting series of papers is certainly fair and moderate enough:—that for the first Parliament the Upper House should be nominated, and that if, after an opportunity for observation and experience has thus been given, the Colonists evidently wish for an elective Council, that innovation be then made, as it can be made at least with more security, when the bitter feelings attending the first contest shall have subsided, and the attention of the public shall have been diverted from party squabbles to subjects of real and permanent interest.

(*Graham's Town Journal, Dec. 7.*)

THE following Memorial, on the subject of the Franchise and qualification for Members of the proposed Parliament of this Colony is in course of signature:—

To His Excellency Sir H. G. W. SMITH, K.H.,
K.C.B., &c., &c., Governor and Commander-in-
Chief of the Colony of the Cape of Good Hope.

The Memorial of the undersigned, Inhabitants of
Graham's Town, and other residents of Albany,—

MOST RESPECTFULLY SHEWETH :

That the Letters Patent, granting Representative
Institutions to this Colony having left the question of

Electoral Qualification open to the discretion of the Legislative Council, which being unfortunately dissolved without having arrived at such conclusions on this subject as, in our opinion the protection of property and general welfare of the Colony appears to demand, we humbly beg that your Excellency will be pleased to attach this Memorial to the Draft Constitution about to be forwarded to the Home Government, as expressive of our views, that a low and indiscriminate franchise, unless in some degree countervailed, cannot but be productive of most pernicious effects. The large number of the coloured classes by whom we are surrounded, whose simplicity is easily wrought upon, renders it imperative that some effectual barrier be imposed against anything approaching to unrestricted suffrage.

With a view, however, of extending the Electoral privilege to as large a portion of the community as is consonant with public safety, we respectfully suggest that the qualifications, both for Members and Electors of the Lower Chamber or House of Assembly, do remain at the scale fixed by the Hon. the Board of Commissioners, appointed by your Excellency on the 25th October last, and further, to qualify all persons possessing an income of £40 per annum to vote for Members of the Legislative Assembly. But in order to impose a check upon the hasty legislation of that Chamber, to rear a bulwark against popular indiscretion, and to afford a safeguard to property, and establish a counterpoise to the too free enactments of a class who possess no permanent stake nor interest in the Colony, we humbly entreat that your Excellency will

represent to Her Majesty's Government, the absolute necessity of a higher grade of qualification for the Legislative Council or Upper House, which we consider (and our opinion is based upon a thorough knowledge of what the Colony can safely warrant) ought to be, at least, the possession of fixed property to the value of two thousand pounds (£2000) unencumbered, or double that amount (£4000) of moveable property clear of drawbacks, for a Member of the Upper Chamber, and the possession of £500 worth of fixed property, or a clear income of £70 a year, should be the qualification for a voter to that Chamber. This we consider would be bringing the Educational test in conjunction with that of Property. Few persons of intelligence receive a smaller income than this amount (£70).

A class of Members will thus be secured, who will legislate more for their country's good than for the honour of re-election, and who, being possessed of a certain independence of position, will not easily be led to barter popular applause for public advantage.

And your Memorialists, as in duty bound, will ever pray, &c.

Dated, Nov., 1850.

WILL THE PROPOSED SCHEMES FOR
A NEW CONSTITUTION AFFORD A
BALANCE OF POWER?

No. 3.

[*Conclusion of the Series.*]

OUR present position is very similar to our Parade on one of the public auction days. We do not mean that our Government is like that of the Roman Empire, in the time of Didius Julianus, to be sold to the highest bidder: but that, in our desire for a new Constitution, there is as much excitement, as much hazard, as much rival competition as in the disposal of any article of interest on our public mart. A, B, and C would each have the Constitution: but each would have it at his own rate, and with his own views,—each is eager in his bidding,—each may wish that there was no bidder but himself. But fortunately for the public weal there is: there is competition of party,—there is the excitement of rival interests; but be the result what it may, in our contemplated change, as in the auction, there is much hazard; and when we get our bargain, and look closely and without excitement at it, there may be much secret disappointment.

It may be well, therefore, as a close to our papers “ON THE NECESSITY OF A BALANCE OF POWER,” that we fairly ask, what do we expect from the new Constitution? We will suppose that the general wish, if the wish *be* general, for a new Constitution at this

present juncture, is "*the greatest happiness of the greatest number.*" But what does this mean? For these broad assertions sound well; but when analyzed and defined, and brought to a practical and individual bearing, they are as *ungraspable* as quicksilver, which is weighty and sparkling in its mass, but if separated runs off into numberless and intractable vagaries. If, therefore, our aim be "*the greatest happiness of the greatest number,*" let us ask how will our new Constitution, when looked at in detail, thus work for the general good. We look at it in a few of its probable bearings, and would throw out a few questions which common sense may answer.

1. *Will the new Constitution really advance the true interests of the colony at large?* Will it, if faction and prejudice prevail? Will it, if property be unrepresented and unprotected? Will it, if confidence be checked and security weakened? landed property depreciating in value? Will it, if many having their means invested in the Colony, deterred by continued feuds and repeated excitement, seek for more peaceable scenes? Will it, if in consequence of this, property change hands, and moneys out on mortgages be called in, and capital be draughted out of the country? Will it, if from lack of capital the land is unused, and labour ceases, and less produce be brought into the market, and few imports be required, and unpacked bales lie idle in the store, and fewer vessels enter our bay? Will it, if from a general stagnation, the labourer, and the artizan, and the shopman, and the storekeeper, and the merchant, all feel the pressure, and consequent bankruptcy lays its cramping hand on