

**A FRAGMENT ON GOVERNMENT: BEING AN  
EXAMINATION OF WHAT IS DELIVERED, ON  
THE SUBJECT OF GOVERNMENT IN GENERAL,  
IN THE INTRODUCTION TO SIR WILLIAM  
BLACKSTONE'S COMMENTARIES: WITH A  
PREFACE, IN WHICH IS GIVEN A CRITIQUE ON  
THE WORK AT LARGE**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649039395

A Fragment on Government: Being an Examination of What Is Delivered, on the Subject of Government in General, in the Introduction to Sir William Blackstone's Commentaries: With a Preface, in Which Is Given a Critique on the Work at Large by Jeremy Bentham

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**JEREMY BENTHAM**

**A FRAGMENT ON GOVERNMENT: BEING AN  
EXAMINATION OF WHAT IS DELIVERED, ON  
THE SUBJECT OF GOVERNMENT IN GENERAL,  
IN THE INTRODUCTION TO SIR WILLIAM  
BLACKSTONE'S COMMENTARIES: WITH A  
PREFACE, IN WHICH IS GIVEN A CRITIQUE ON  
THE WORK AT LARGE**



A  
F R A G M E N T  
O N  
GOVERNMENT;

B E I N G

An EXAMINATION of what is delivered,  
On the Subject of GOVERNMENT in General,  
In the INTRODUCTION to

*Sir William Blackstone's* COMMENTARIES:

W I T H A

P R E F A C E,

IN WHICH IS GIVEN

A CRITIQUE ON THE WORK AT LARGE.

---

*by Jeremy Bentham*

Rien ne recule plus le progrès des connoissances, qu'un mauvais ouvrage d'un Auteur célèbre: parce qu'avant d'instruire, il faut commencer par détromper.

MONTESQUIEU *Esprit des Loix*, L. XXX, Ch. XV.

---

L O N D O N :

Printed for T. PAYNE, at the Mews-Gate; P. ELSLEY, opposite Southampton-Street in the Strand; and E. BROOKS, in Bell-Yard, Temple-Bar.

---

M.DCC.LXXVI.

---

## P R E F A C E.

THE age we live in is a busy age; in which knowledge is rapidly advancing towards perfection. In the natural world, in particular, every thing teems with discovery and with improvement. The most distant and recondite regions of the earth traversed and explored—the all-vivifying and subtle element of the air so recently analyzed and made known to us,—are striking evidences, were all others wanting, of this pleasing truth.

Motives of  
the present  
undertaking.

Correspondent to *discovery* and *improvement* in the natural world, is *reformation* in the moral: if that which seems a common notion be, indeed, a true one, that in the moral world there no longer remains any matter for *discovery*. Perhaps, however, this may not be the case: perhaps among such observations as would be best calculated to serve as grounds for reformation, are some which, being observations of matters of fact hitherto either incompletely noticed, or not at all, would, when produced, appear capable of bearing the name of discoveries: with so little method and precision have the consequences

Motives of  
the present  
undertaking.

of this fundamental axiom, *it is the greatest happiness of the greatest number that is the measure of right and wrong*, been as yet developped.

Be this as it may, if there be room for making, and if there be use in publishing, *discoveries* in the *natural* world, surely there is not much less room for making, nor much less use in proposing, *reformation* in the *moral*. If it be a matter of importance and of use to us to be made acquainted with *distant* countries, surely it is not a matter of much less importance, nor of much less use to us, to be made better and better acquainted with the chief means of living happily in our *own*: If it be of importance and of use to us to know the principles of the element we breathe, surely it is not of much less importance nor of much less use to comprehend the principles, and endeavour at the improvement of those *laws*, by which alone we breathe it in security. If to this endeavour we should fancy any Author, especially any Author of great name, to *be*, and as far as could in such case be expected, to *avow himself* a determined and persevering enemy, what should we say of him? We should say that the interests of reformation, and through them the welfare of mankind, were inseparably connected with the downfall of his works: of a great part, at least, of the esteem and

## P R E F A C E.

iii

and influence, which these works might under whatever title have acquired.

Motives of  
the present  
undertaking.

Such an enemy it has been my misfortune (and not mine only) to see, or fancy at least I saw, in the Author of the celebrated *COMMENTARIES ON the LAWS of ENGLAND*: an Author whose works have had beyond comparison a more extensive circulation, have obtained a greater share of esteem, of applause, and consequently of influence (and that by a title on many grounds so indisputable) than any other writer who on that subject has ever yet appeared.

It is on this account that I conceived, some time since, the design of pointing out some of what appeared to me the capital blemishes of that work, particularly this grand and fundamental one, the antipathy to reformation; or rather, indeed, of laying open and exposing the universal inaccuracy and confusion which seemed to my apprehension to pervade the whole. For, indeed, such an ungenerous antipathy seemed of itself enough to promise a general vein of obscure and crooked reasoning, from whence no clear and sterling knowledge could be derived; so intimate is the connexion between some of the gifts of the understanding, and some of the affections of the heart.

History of it.



History of it.

It is in this view then that I took in hand that part of the first volume to which the Author has given the name of INTRODUCTION. It is in this part of the work that is contained whatever comes under the denomination of *general principles*. It is in this part of the work that are contained such preliminary views as it seemed proper to him to give of certain objects real or imaginary, which he found connected with his subject LAW by identity of name: two or three sorts of LAWS of *Nature*, the *revealed* LAW, and a certain LAW of *Nations*. It is in this part of the work that he has touched upon several topics which relate to all laws or institutions [a] in general, or at least to whole classes of institutions without relating to any one more than to another.

To speak more particularly, it is in this part of his work that he has given a definition, such as it is, of that whole branch of law which he had taken for his subject; that branch, which some, considering it as a main stock, would term LAW without addition; and which he, to distinguish it from those

---

[a] I add here the word *institutions*, for the sake of including rules of *Common Law*, as well as portions of *Statute Law*.

## P R E F A C E.

v

others its *condivident branches* [b], terms law *municipal*:—an account, such as it is, of the nature and origin of *Natural Society* the mother, and of *Political Society* the daughter, of *Law municipal*, duly begotten in the bed of Metaphor:—a division, such as it is, of *a law*, individually considered, into what he fancies to be its *parts*:—an account, such as it is, of the method to be taken for *interpreting* any law that may occur.

History of it.

In regard to the Law of England in particular, it is here that he gives an account of the division of it into its two branches (branches, however, that are no ways distinct in the purport of them, when once established, but only in respect of the source from whence their establishment took its rise) the *Statute* or *Written law*, as it is called, and the *Common* or *Unwritten*:—an account of what are called *General Customs*, or institutions in force throughout the whole empire, or at least the whole nation;—of what are called *Particular Customs*, institutions of local extent established in particular districts; and of such *adopted* institutions of a general extent, as are parcel of what are called the *Civil* and the *Canon* laws; all three in the character of so many branches

---

[b] *Membra condividentia*.—SAUND. LOG. L. I. c. 46.

History of it.

of what is called the *Common Law* :—in fine, a general account of *Equity*, that capricious and incomprehensible mistress of our fortunes, whose features neither our Author, nor perhaps any one is well able to delineate ;—of *Equity*, who having in the beginning been a rib of *Law*, but since in some dark age plucked from her side, when sleeping, by the hands not so much of God as of enterprizing Judges, now lords it over her parent sister :—

All this, I say, together with an account of the different districts of the empire over which different portions of the Law prevail, or over which the Law has different degrees of force, composes that part of our Author's work which he has styled the *INTRODUCTION*. His eloquent " Discourse on the study " of the Law," with which, as being a discourse of the rhetorical kind rather than of the didactic, I proposed not to intermeddle, prefaces the whole.

It would have been in vain to have thought of travelling over the whole of so vast a work. My design, therefore, was to take such a portion of it, as might afford a fair and adequate specimen of the character and complexion of the whole. For this purpose the part here marked out would, I thought, abundantly suffice. This, however narrow in extent, was the most conspicuous, the most characteristic