

**A FRAGMENT ON GOVERNMENT, OR, A  
COMMENT ON THE COMMENTARIES: BEING  
AN EXAMINATION OF WHAT IS DELIVERED  
ON THE SUBJECT OF GOVERNMENT IN  
GENERAL, IN THE INTRODUCTION TO SIR  
WILLIAM BLACKSTONE'S COMMENTARIES**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9781760574642

A Fragment on Government, or, a Comment on the Commentaries: Being an Examination of What Is Delivered on the Subject of Government in General, in the Introduction to Sir William Blackstone's Commentaries 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, OR, A  
COMMENT ON THE COMMENTARIES: BEING  
AN EXAMINATION OF WHAT IS DELIVERED  
ON THE SUBJECT OF GOVERNMENT IN  
GENERAL, IN THE INTRODUCTION TO SIR  
WILLIAM BLACKSTONE'S COMMENTARIES**



A  
FRAGMENT  
ON  
GOVERNMENT;  
OR, A  
**Comment on the Commentaries:**

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, ESQ.  
OF LINCOLN'S-INN.

\* 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 detromper.  
*Montesquieu Esprit des Loix, L. XXX. Ch. XV.*

SECOND EDITION, ENLARGED.

LONDON:  
PRINTED FOR E. WILSON, ROYAL EXCHANGE; AND  
W. PICKERING, LINCOLN'S-INN FIELDS.

1823.



T. White & Co. Printers, 14, Bear Alley,  
London. -

## CONTENTS.

---

PREFACE.		Page
MOTIVES of the present undertaking . . . . .		v
History of it . . . . .		vii
The Business of the <i>Censor</i> distinguished from that of the <i>Expositor</i> . . . . .		xii
The latter alone our Author's . . . . .		xiv
Laws ought to be scrutinized with freedom . . . . .		ib.
Our Author why attacked in the character of an <i>Expositor</i> , . . . . .		xxiii
Reprehensible passages from the work at large . . . . .		xxvi
Its merits . . . . .		xxxix
Idea of a <i>saturnal</i> arrangement . . . . .		xlii
Merits of the work resumed . . . . .		xlvii
Manner in which the present Essay has been conducted . . . . .		1

## INTRODUCTION.

I. Division of our Author's Introduction . . . . .	1
II. What part of it is here to be examined . . . . .	2
III. His definition of Law Municipal . . . . .	ib.
IV. A digression in the middle of it. Its general contents . . . . .	3
V. This digression the subject of the present examination . . . . .	ib.
VI. Our Author's sketch of the contents . . . . .	4
VII. Inadequate . . . . .	5
VIII. Division of the present Essay . . . . .	ib.

## CHAP. I.

	Page
I. Subject of the passage to be examined in the present chapter . . . . .	6
II. The passage recited . . . . .	<i>ib.</i>
III. Confusion among the leading terms of it . . . . .	8
IV. "Society" put synonymous to a state of nature.—opposed to "Government."—and spoken of as having existed . . . . .	9
V. "Society"—put synonymous to "government" . . . . .	10
VI. A state of nature spoken of, as never having existed . . . . .	11
VII. <i>Original contract</i> , its reality denied . . . . .	<i>ib.</i>
VIII. —asserted . . . . .	12
IX. Attempt to reconcile these contradictions—Society distinguished into natural and political . . . . .	<i>ib.</i>
X. Idea of <i>political society</i> . . . . .	13
XI. Idea of <i>natural society</i> . . . . .	<i>ib.</i>
XII. Difficulty of drawing the line between the two states, . . . . .	<i>ib.</i>
1. <i>A habit</i> . . . . .	14
2. <i>A habit of obedience</i> . . . . .	15
3. <i>An act of obedience</i> . . . . .	<i>ib.</i>
4. <i>An act of political obedience</i> . . . . .	<i>ib.</i>
5. <i>An expression of will</i> . . . . .	<i>ib.</i>
6. <i>A parole expression of will</i> . . . . .	<i>ib.</i>
7. <i>A tacit expression of will</i> . . . . .	<i>ib.</i>
8. <i>A command</i> . . . . .	<i>ib.</i>
9. <i>A fictitious command</i> . . . . .	<i>ib.</i>
10. <i>Commands</i> & <i>quasi commands</i> . . . . .	<i>ib.</i>
11. <i>Illustration—Statue Law, &amp; Common Law</i> . . . . .	<i>ib.</i>
12. <i>Duty—Point of duty</i> . . . . .	<i>ib.</i>
13. <i>Use of the above chain of definitions</i> . . . . .	<i>ib.</i>
14. <i>Habit of obedience—measure of its perfection</i> . . . . .	16
15. <i>Illustration</i> . . . . .	<i>ib.</i>



CONTENTS.

	Page
16. Political union or connection . . . . .	16
17. Submission—subjection . . . . .	ib.
18. Submission & subjection . . . . .	ib.
XIII. A perfect state of nature not more chimerical than a perfect state of government . . . . .	15
<i>It is not a family union, however perfect, that can constitute a political society—why</i> . . . . .	17
XIV. "State of nature" a relative expression . . . . .	18
XV. Different degrees of subjection among governors . . . . .	19
XVI. The same person alternately in a state of political and natural society with respect to different so- cieties . . . . .	20
XVII. In the same political society the same persons alter- nately, governors and subjects, with respect to the same persons . . . . .	ib.
XVIII. Hints of several topics that must be passed by . . . . .	21
XIX. The same society, alternately, in a state of nature and a state of government . . . . .	22
XX. Instance—the Aborigines of America . . . . .	ib.
XXI. Characteristic of political union . . . . .	ib.
XXII. Among persons already in a state of political union, at what instant a new society can be said to be formed, by defection from a former . . . . .	23
XXIII. First, in case of defection by whole bodies—instance the Dutch provinces . . . . .	24
XXIV. Second, in case of defection by individuals—in- stances, Rome—Venice . . . . .	25
XXV. A revolt, at what juncture it can be said to have taken place . . . . .	ib.
XXVI. Disobediences what do not amount to a revolt . . . . .	ib.
1. Disobedience unconscious with respect to the <i>fact</i> . . . . .	26
2. Disobedience unconscious with respect to the <i>Law</i> . . . . .	ib.
3. Illustration . . . . .	ib.

	Page
<i>Disobedience fraudulent and forcible—the difference, illustrated . . . . .</i>	26
XXVII. <i>Disobediences what do amount to a revolt . . . . .</i>	27
XXVIII. <i>Unfinished state of the above hints . . . . .</i>	ib.
XXIX. <i>Our Author's proposition, "That government " results of course," not true . . . . .</i>	28
XXX. <i>Ambiguity of the sentence . . . . .</i>	ib.
XXXI. <i>Darkness of the whole paragraph further shewn . . . . .</i>	29
XXXII. <i>Farther proofs of the darkness of the whole paragraph . . . . .</i>	30
XXXIII. <i>A general idea of its character . . . . .</i>	31
XXXIV. <i>Difficulty attending this examination . . . . .</i>	32
XXXV. <i>Use that may be made of it . . . . .</i>	ib.
XXXVI. <i>Original Contract, a fiction . . . . .</i>	33
1. <i>Notion of the Original Contract overthrown by     Mr. Hume . . . . .</i>	ib.
2. <i>History of a mind perplexed by Fiction . . . . .</i>	34
XXXVII. <i>Fictions in general mischievous in the present state of things . . . . .</i>	35
XXXVIII. <i>This had a momentary use . . . . .</i>	36
<i>A compact, or contract . . . . .</i>	37
XXXIX. <i>Terms of the supposed contract stated . . . . .</i>	38
XL. <i>Stated thus generally, it could not dispense men     from entering into the question of utility, as     was intended . . . . .</i>	ib.
XLI. <i>Nor, if stated more particularly, could it answer     what was designed by it . . . . .</i>	39
XLII. <i>Nor is it an original independent principle . . . . .</i>	41
XLIII. <i>Nor can it serve to prove any thing but what     may be better proved without it . . . . .</i>	42
XLIV. <i>The Coronation-Oath does not come up to the     notion of it . . . . .</i>	ib.
XLV. <i>The obligation of a promise will not stand against     that of utility: while that of utility will against     that of a promise . . . . .</i>	43

CONTENTS.

	Page
XLVI. A fallacy obviated . . . . .	44
XLVII. The obligation of a promise, were it even independent, would not be extensive enough for the purpose . . . . .	ib.
XLVIII. But the principle of UTILITY is all-sufficient . . . . .	45

vii

CHAP. II.

I. Subject of the present chapter . . . . .	49
II. Theological flourish of our Author . . . . .	ib.
III. Governors—celestial endowments found for them . . . . .	ib.
IV. The passage recited . . . . .	50
V. Theology on such an occasion as this impertinent . . . . .	51
VI. Difficulty it leads him into . . . . .	52
VII. Power, either natural or political . . . . .	ib.
VIII. In neither sense can it be attributed as he attributes it . . . . .	53
IX. What it is that may . . . . .	ib.
X. —and for what reason . . . . .	54
XI. Heterogeneous contents of the next paragraph . . . . .	55
XII. The paragraph recited . . . . .	ib.
XIII. Paradoxical assertion in the latter part of it, as if all governments were the result of a free preference . . . . .	56
XIV. Reasons for supposing this to have been the meaning of it . . . . .	57
XV. The doctrine of it applied to particular instances . . . . .	ib.
XVI. General contents of the six remaining paragraphs relating to the subject of this chapter . . . . .	59
XVII. —of the first paragraph . . . . .	ib.
XVIII. —Second . . . . .	ib.
XIX. —Third . . . . .	ib.
XX. —Fourth . . . . .	ib.
XXI. —Fifth . . . . .	ib.